



SECOND EDITION

HEGEL'S POLITICAL PHILOSOPHY

A SYSTEMATIC READING OF THE
PHILOSOPHY OF RIGHT

THOM BROOKS

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Second Edition

THOM BROOKS

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Preface

This book is the development of far more than countless sleepless nights at the keyboard. I have benefited tremendously from the kindness and good advice of many people over the several years I have studied Hegel's philosophy, these studies culminating in this book. I simply must begin by indicating my sincere thanks to them in this preface.

Avital Simhony first introduced me to Hegel's *Philosophy of Right* while I was an M.A. student in political science at Arizona State in 1998. Much of my academic life has been spent trying to make sense of this text ever since. I am forever grateful to her for both introducing me to the richness of Hegel's philosophy (and of British Idealism), as well as her continued help over the years.

Brian O'Connor deserves much credit for his enduring encouragement of my work on Hegel since acting as my supervisor at University College Dublin for an M.A. in philosophy. Under his tutelage, my interest in both Hegel's views on punishment and legal theory first blossomed, as well as my initial suspicions that something was amiss with so-called 'non-metaphysical' approaches to the study of Hegel. I am deeply grateful to his continued help since.

I simply cannot thank enough everyone at the University of Sheffield's Department of Philosophy where much of the work for this book was undertaken. None have been as helpful as Bob Stern and I dedicate this book to him with the deepest gratitude a student may offer his teacher. He has been far more than a philosophy supervisor, but also a dear friend. My secondary supervisor, Leif Wenar, has been equally kind and overly generous with his sage advice. I have benefited tremendously both from their advice and their example. No student could have been more fortunate to enjoy such support. I simply could not be more in their debt.

Furthermore, I must thank my Newcastle University colleagues, especially the Newcastle Political Philosophy Group and, primarily, Peter Jones, for their support and encouragement of this project, providing me with a highly stimulating place to work. My research has benefited tremendously

from a year-long research sabbatical. I must thank both the School of Geography, Politics and Sociology (where my Department of Politics is based), an Arts and Humanities Research Fund Award from Newcastle University, and generous funding from the Arts and Humanities Research Council for making this leave possible.

This book began life as my Ph.D. thesis in Philosophy at the University of Sheffield, and it has since been substantially revised and expanded by several chapters.* The following chapters have been presented at a variety of conferences and invited-speaker seminars, including the American Philosophical Association – Eastern Division annual conference held at Washington, DC; the Classical Association's annual conference held at Newcastle; the departments of Politics at the universities of Edinburgh, Newcastle and Sheffield; the Global Studies Association's annual conference held at Newcastle; the Hegel Society of Great Britain's annual conference held at St Edmund Hall, Oxford; the Internationalen Vereinigung für Rechts- und Sozialphilosophie conference held at Lund University; the Newcastle Political Philosophy Group weekly workshops; the Political Studies Association annual conferences held at the universities of Leeds and Leicester; the School of Philosophy at University College Dublin; and the Senior Philosophy Postgraduate Seminar at the University of Sheffield.

Bob Stern and Leif Wenar tirelessly read through many of this book's chapters at each stage. Fabian Freyenhagen discussed the full contents of this book at length and read several drafts in full. I must thank my Ph.D. examiners, Chris Bennett and Dudley Knowles, for their probing questions, written comments and helpful advice. I have also benefited from comments and discussions with a number of friends and colleagues, not least including Mark Bevir, Brian Bix, Gary Browning, John Callanan, Joy Chaudhuri, Jerry Cohen, James Connolly, Marek Dalibor, Wayne Davis, John Divers, Lynn Dobson, Iain Hampsher-Monk, Tim Hayward, Ken Himma, Chris Hookway, Gerry Hough, Stephen Houlgate, Michael Inwood, Peter Jones, Duncan Kelly, Tim Kelsall, Jim Kreines, Judith Lichtenberg, Ali Madani-pour, David Merrill, Mari Mikkola, Dermot Moran, Dean Moyar, Richard Mullender, Brian O'Connor, Jim O'Shea, Mike Otsuka, James Pattison, Henry Richardson, Michael Rosen, Doug Ryan, Avital Simhony, John Skorupski, Alison Stone, Jens Timmermann, Mark Tunick, Colin Tyler, Andrew Vincent, Ken Westphal, Kathryn Wilkinson, Jo Wolff and Allen Wood. While the usual qualifications apply, I am certain this book has benefited substantially from their help and good advice no matter how close or far the book settles their queries.

* See Thom Brooks, 'Taking the System Seriously: Themes in Hegel's *Philosophy of Right*,' Ph.D. thesis, University of Sheffield, 2004.

PREFACE

Of course, I must warmly thank Edinburgh University Press and, most especially, Nicola Ramsey, for their support of this project from its very beginning. It is a true joy to work with such a wonderful team. Indeed, thanks must also extend to my copy editor, Lyn Flight, and Edinburgh University Press's anonymous referees who provided very helpful suggestions for how my project could be improved further. I must also thank Angie Hogg and Shirley Mulvenna for their assistance in preparing the manuscript.

Finally, special mention must be made of my cats, Miles and Ella, who never tired of running over to my study to accompany me as I began yet another all-nighter writing this book, and my family and especially my parents, Alan and Kathy, who supported my studies moving from my native Connecticut to New Jersey to Arizona and then to Dublin to Sheffield and at last to Newcastle. My parents may never understand why I am so attracted to philosophy, not least to Hegel's philosophy, but without their love and support this project would have never been possible.

T.A.K.B.
Tynemouth, England
April 2007

Preface to the Second Edition

I have been delighted with the warm reception and critical attention *Hegel's Political Philosophy* has received since its original publication. I continue to defend the arguments presented here and I have avoided any revisions or expansions in the original text with one exception. I had been less certain about how the *Philosophy of Nature* might relate to the systematic reading I offer beyond a handful of remarks. Nonetheless, I have benefited from several highly fruitful conversations about these and other topics with Paul Franks, and he has convinced me that there was something more to be said about how Hegel's views on nature might inform a systematic understanding of his views on ethics and political philosophy. I have provided an additional substantial note to Chapter 1 that addresses the link between the *Philosophy of Nature* and Hegel's *Philosophy of Right* that I have found useful.

This second edition contains three new chapters. I have been long interested in the relation between Hegel's political philosophy and democracy. This was the subject of an early paper I published originally in the *Bulletin of the Hegel Society of Great Britain*, and it appears here in revised form in Chapter 8. There remains much general confusion about the relation between Hegel's philosophy of history and the so-called 'end of history' thesis promulgated by Francis Fukuyama and others. I defend for the first time my interpretation of Hegel's views on history in Chapter 10. The third new chapter is a substantial reply to criticisms that have surfaced since 2007, with particular reference to the insightful and illuminating comments I have received from Paul Redding, Michael Rosen and Allen Wood that appear in a special issue of the *Bulletin of the Hegel Society of Great Britain* on *Hegel's Political Philosophy*.

I have accumulated many intellectual and personal debts that should be acknowledged. I must thank Nicola Ramsey at Edinburgh University Press for her enthusiasm and support for this project since its beginning. I am deeply indebted to her for the opportunity to further promote my interpretation of Hegel's political and legal philosophy in this new edition. I am

also most grateful to Michelle Houston for her assistance with preparing the manuscript. It has been a great pleasure to work this wonderful team.

I have benefited from several audiences in the production of this new second edition. These include talks presented to the American Philosophical Association – Eastern Division meetings, the Centre for the Study of Mind in Nature at the University of Oslo, Newcastle Law School, and the Political Studies Association annual conference at Manchester University. I am most grateful for constructive discussions and comments relating to arguments and themes in this book to several outstanding colleagues, including Mark Bevir, Gary Browning, the late Jerry Cohen, Paul Franks, Stephen Houlgate, Peter Jones, James Kreines, Wayne Martin, Richard Mullender, Martha Nussbaum, Brian O'Connor, Robert Pippin, Paul Redding, David Rose, Michael Rosen, Avital Simhony, John Skorupski, Leif Wenar, Ken Westphal and Allen Wood. Special thanks are due to Fabian Freyenhagen for his always illuminating discussions that have improved much in these pages, even if we are not yet in agreement on all issues. Special thanks are also due to Bhikhu Parekh. His influence on my thinking is deeply profound and I continue to benefit from his advice on Hegelian philosophy and so much else. I am also extremely grateful to my wife, Claire, for her support and encouragement on this project. Finally, I remain deeply indebted to Bob Stern, to whom I rededicate this second edition, for the profound impact he has had on my understanding of Hegel and of philosophy more generally.

T.A.K.B.
Newcastle upon Tyne, England
2012

Acknowledgements

This book includes some of my previously published work:

Chapter 3 ('Punishment') uses substantially revised material from my 'Is Hegel a Retributivist?', *Bulletin of the Hegel Society of Great Britain* 49/50 (2004), pp. 113–26.

Chapter 7 ('Monarchy') is a slightly revised version of my 'No Rubber Stamp: Hegel's Constitutional Monarch', *History of Political Thought* 28 (2007), pp. 91–119.

Chapter 8 ('Democracy') is a substantially revised version of my 'Plato, Hegel, and Democracy', *Bulletin of the Hegel Society of Great Britain* 53/54 (2006), pp. 24–50.

I am most grateful to their publishers for permission to include this work in what follows.

Abbreviations

All references to work by Hegel and Kant will follow the below abbreviations:

WORKS BY HEGEL

- EL *Encyclopaedia of the Philosophical Sciences (I): Logic*
G. W. F. Hegel, *The Encyclopaedia Logic: Part I of the Encyclopaedia of Philosophical Sciences with the Zusätze*, (trans.) T. F. Geraets, W. A. Suchting, and H. S. Harris (Indianapolis, IN: Hackett, 1991). References will indicate section numbers with remarks by 'R' and additions by 'A'.
- EN *Encyclopaedia of the Philosophical Sciences (II): The Philosophy of Nature*
G. W. F. Hegel, *Hegel's Philosophy of Nature: Being Part Two of the Encyclopaedia of the Philosophical Sciences (1830) Translated from Nicolin and Pöggeler's Edition (1959) and from the Zusätze in Michelet's Text (1847)*, (trans.) A. V. Miller (Oxford: Clarendon, 1970). References will indicate section numbers with remarks by 'R' and additions by 'A'.
- ERB *On the English Reform Bill*
G. W. F. Hegel, 'On the English Reform Bill', in his *Political Writings*, (eds) Laurence Dickey and H. B. Nisbet (Cambridge: Cambridge University Press, 1999), pp. 234–70. Cited by page number.
- ES *Encyclopaedia of the Philosophical Sciences (III): The Philosophy of Spirit*
G. W. F. Hegel, *Hegel's Philosophy of Mind [Geist]: Part Three of the Encyclopaedia of the Philosophical Sciences (1830) Translated from*

Nicolin and Pöggeler's Edition (1959) and from the Zusätze in Michelet's Text (1847), (trans.) A. V. Miller (Oxford: Clarendon, 1971). References will indicate section numbers with remarks by 'R' and additions by 'A'.

GC *The German Constitution*

G. W. F. Hegel, 'The German Constitution', in his *Political Writings*, (eds) Laurence Dickey and H. B. Nisbet (Cambridge: Cambridge University Press, 1999), pp. 6–101. Cited by page number.

IA *Inaugural Address*

G. W. F. Hegel, 'Inaugural Address, Delivered at the University of Berlin (22 October 1818)', in his *Political Writings*, (eds) Laurence Dickey and H. B. Nisbet (Cambridge: Cambridge University Press, 1999), pp. 181–5. Cited by page number.

LA *Lectures on Aesthetics*

G. W. F. Hegel, *Hegel's Aesthetics: Lectures on Fine Art*, 2 vols, (trans.) T. M. Knox (Oxford: Oxford University Press, 1975). Cited by page number.

LHP *Lectures on the History of Philosophy*

G. W. F. Hegel, *Lectures on the History of Philosophy*, 3 vols, (trans.) E. S. Haldane (London: Kegan Paul, Trench, Trübner & Co., 1892). Cited by page number.

LNR *Lectures on Natural Right*

G. W. F. Hegel, *Lectures on Natural Right and Political Science: The First Philosophy of Right, Heidelberg 1817–1818 with Additions from the Lectures of 1818–1819*, (trans.) J. Michael Stewart and Peter C. Hodgson (Berkeley, CA: University of California Press, 1995). References will indicate section numbers with remarks by 'R'.

LPH *Lectures on the Philosophy of History*

G. W. F. Hegel, *Lectures on the Philosophy of World History: Introduction: Reason in History*, (trans.) H. B. Nisbet (Cambridge: Cambridge University Press, 1975). Cited by page number.

ABBREVIATIONS

NL *Natural Law*

G. W. F. Hegel, *Natural Law: The Scientific Ways of Treating Natural Law, Its Place in Moral Philosophy, and Its Relation to the Positive Sciences of Law*, (trans.) T. M. Knox (Philadelphia, PA: University of Pennsylvania Press, 1975). Cited by page number.

PH *Philosophy of History*

G. W. F. Hegel, *The Philosophy of History*, (trans.) J. Sibree (New York: Dover, 1956). Cited by page number.

PR *Philosophy of Right*

G. W. F. Hegel, *Grundlinien der Philosophie des Rechts*, vol. 7, (eds) Eva Moldenhauer and Karl Markus Michel (Frankfurt am Main: Suhrkamp Verlag, 1970). All English translations are from G. W. F. Hegel, *Elements of the Philosophy of Right*, (ed.) Allen W. Wood, (trans.) H. B. Nisbet (Cambridge: Cambridge University Press, 1991) unless otherwise noted. References will indicate section numbers with remarks by 'R' and additions by 'A'.

PS *Phenomenology of Spirit*

G. W. F. Hegel, *Phenomenology of Spirit*, (trans.) A. V. Miller (Oxford: Oxford University Press, 1977). Cited by page number.

PW *Political Writings*

G. W. F. Hegel, *Political Writings*, (trans.) T. M. Knox (Oxford: Clarendon, 1964). Cited by page number.

RRS *The Relationship of Religion to the State*

G. W. F. Hegel, 'The Relationship of Religion to the State', in his *Political Writings*, (eds.) Laurence Dickey and H. B. Nisbet (Cambridge: Cambridge University Press, 1999), pp. 225–33. Cited by page number.

SEL *System of Ethical Life*

G. W. F. Hegel, *Hegel's System of Ethical Life and First Philosophy of Spirit*, (eds and trans.) H. S. Harris and T. M. Knox (Albany, NY: State University of New York Press, 1979). Cited by page number.

- SL *Science of Logic*
G. W. F. Hegel, *Hegel's Science of Logic*, (trans.) A. V. Miller (Amherst, NY: Humanity Books, 1969/1999). Cited by page number.
- TAC *Tercentenary of the Submission of the Augsburg Confession*
G. W. F. Hegel, 'Address on the Tercentenary of the Submission of the Augsburg Confession', in his *Political Writings*, (eds) Laurence Dickey and H. B. Nisbet (Cambridge: Cambridge University Press, 1999), pp. 186–96. Cited by page number.

WORKS BY KANT

- CI *Critique of Pure Reason*
Immanuel Kant, *Critique of Pure Reason*, (trans.) Werner S. Pluhar, (Indianapolis, IN: Hackett, 1996). Cited by first edition (A) and second edition (B) page numbers.
- CII *Critique of Practical Reason*
Immanuel Kant, *Critique of Practical Reason*, (trans.) Mary Gregor (Cambridge: Cambridge University Press, 1997). References will indicate volume and page number in the Prussian Academy edition of Kant's works.
- CIII *Critique of Judgement*
Immanuel Kant, *Critique of Judgement*, (trans.) Werner S. Pluhar (Indianapolis, IN: Hackett, 1987). References will indicate volume and page number in the Prussian Academy edition of Kant's works.
- G *Groundwork of the Metaphysics of Morals*
Immanuel Kant, *Groundwork of the Metaphysics of Morals*, (trans.) Mary Gregor (Cambridge: Cambridge University Press, 1997). References will indicate volume and page number in the Prussian Academy edition of Kant's works.
- MM *Metaphysics of Morals*
Immanuel Kant, *The Metaphysics of Morals*, (trans.) Mary Gregor (Cambridge: Cambridge University Press, 1996). References will indicate volume and page number in the Prussian Academy edition of Kant's works.

ABBREVIATIONS

R *Religion within the Boundaries of Mere Reason*

Immanuel Kant, *Religion within the Boundaries of Mere Reason and Other Writings*, (eds and trans.) Allen Wood and George di Giovanni (Cambridge: Cambridge University Press, 1998). References will indicate volume and page number in the Prussian Academy edition of Kant's works.

For my teacher, Bob Stern

The duty of philosophy was, rather, to remove the deception arising from misinterpretation, even at the cost of destroying the most highly extolled and cherished delusion.

Immanuel Kant, *Critique of Pure Reason*

Philosophy would indeed be the easiest of studies, if we might arrive at truth by assuming that one of two accounts must be true, and prove the one by disproving the other; but in philosophy this is just what can not be done.

F. H. Bradley, *Ethical Studies*

These texts have much to teach us . . . We don't study them in the hope of finding some philosophical argument, some analytic idea that will be directly useful for our present-day philosophical questions in the way they arise for us. No, we study Hume, Leibniz, and Kant because they express deep and distinctive philosophical doctrines.

In discussing Hegel (1770–1831), I have much the same aim.

John Rawls, *Lectures on the History of Moral Philosophy*

Some of the gravest misunderstandings that obscure the *Philosophy of Right* can be removed simply by considering the place of the work in Hegel's system.

Herbert Marcuse, *Reason and Revolution*

Introduction

I THE RECEPTION OF HEGEL'S *PHILOSOPHY OF RIGHT*

It is perhaps ironic that the Anglo-American reception of G. W. F. Hegel's the *Philosophy of Right* first published in 1821 has developed along its own dialectical path.¹ In essence, Hegel's dialectic unfolds in the following way: we begin with an initial standpoint, we then next move toward a consideration of its opposite standpoint, and then we arrive at a middle position between these initial two extremes. The ensuing reception of the *Philosophy of Right* curiously follows a similar tale of moving from one position to its opposite, only to settle at a middle position between the two earlier extremes.

The first great debate on the *Philosophy of Right* was over its political sympathies. From its first appearance, it had been charged with endorsing a dangerous conservatism bordering on totalitarianism and fascism.² For example, Karl Popper described Hegel as 'the father of modern historicism and totalitarianism'.³ Hegel's defenders later argued not only that these charges were untrue, but that, in fact, Hegel's views are consistent with liberalism.⁴ The debate about whether Hegel's political philosophy is either conservative or liberal is now over. Today, the overwhelming majority of commentators accept that Hegel's views are best viewed as politically moderate, in between the extremes of conservatism and liberalism.⁵ Thus, the history of the first debate is a movement from one standpoint to its opposite, only to settle at a middle position between the two earlier extremes.⁶

The second great debate on the *Philosophy of Right* is over its relationship to metaphysics. Commentators have divided themselves into opposing camps: the 'metaphysical' approach to the study of Hegel's work and the 'non-metaphysical' approach to Hegel's work. We might be easily misled from the start into thinking that this debate centres on whether there is (or is not) metaphysics to be found in Hegel's *Philosophy of Right*. In

fact, this is virtually nowhere in doubt. All commentators on both sides accept that the *Philosophy of Right* contains a metaphysical account. Instead, the debate has developed into an argument over how strongly metaphysical (and, in particular, how Platonist) Hegel's *Philosophy of Right* is, in fact.

Of course, 'metaphysics' may represent many different things. In the most basic of terms, metaphysical existence is something that exists, but not in a physical form. Thus, items such as 'human rights' are metaphysical entities. The right to life may be said to be 'real' and substantiated in law. However, rights are not physical objects like books containing statutes or a pet cat at one's feet.

It is quite clear that a metaphysics of this variety is at play in the *Philosophy of Right*. From its opening pages, Hegel tells us that the text is primarily concerned with 'the concept of right and its actualization' (PR, §1). Hegel presents us with a metaphysical picture of right insofar as his argument is not merely *that* 'right' exists, but that we can understand its existence *in different degrees of existing*. Thus, we can speak of some forms of right being more real than others. This view of right links with a wider account of freedom: we can speak of freedom having more or less existence just as we can of right (see PR, §1A). We will examine this picture in more detail in Chapter 1. However, it is helpful to note from the start that Hegel's views are metaphysical at least in this most basic sense.

Some commentators, such as Terry Pinkard, have sought to challenge this most basic understanding of metaphysics, essentially separating 'ontology' from metaphysics.⁷ In essence, this view agrees with John Rawls's characterisation of metaphysics whereby it is thought to amount to no more than plain obscurity, controversial moral or religious claims.⁸ When we claim an argument is 'metaphysical', we make reference only to a particular subset of metaphysics writ large. Claims are labelled 'ontological' rather than 'metaphysical' to denote the former as a more reasonable or less controversial metaphysical claim. Ontological arguments remain metaphysical arguments, even if some commentators prefer to speak about the two as altogether different enterprises.⁹ When it is said that Hegel endorses ontology and not metaphysics, it is essential that we understand precisely what is being said, namely, that Hegel's metaphysics is not as obscure or controversial as has been previously thought. Oddly, an ontological (and allegedly 'non-metaphysical') reading of Hegel remains a metaphysical reading. In fact, virtually all non-metaphysical readings of Hegel's *Philosophy of Right* admit that they do not hold the position that this work lacks metaphysics in any strong sense. Instead, the argument is that a less controversial and more reasonable conception of Hegel's metaphysics can be offered.¹⁰ It is well worth trumpeting this important point that is too often overlooked.

The difference then between metaphysical and non-metaphysical readings is as follows. Metaphysical readings of Hegel's work tend to highlight both Hegel's insistence that some states can be considered more 'true' or 'actual' than others, as well as the priority and special place of religion in Hegel's account.¹¹ Non-metaphysical readings of Hegel's work argue that we can understand Hegel's views on 'actuality' and 'actualization' as less strong metaphysical conceptions (often described as an 'ontology' and not a 'metaphysics') and focus on a single work by Hegel – such as the *Philosophy of Right* – to the exclusion of Hegel's additional writings.¹²

This second debate has moved from one position (that is, the metaphysical reading) to its 'opposite' (that is, the non-metaphysical reading). The argument of this book is that this debate can be transformed in settling on a middle position between the two: a perspective that can bring out the best in both approaches. This position is the 'systematic' reading of Hegel's work. In this book, I will be offering a systematic reading of Hegel's *Philosophy of Right*.

II THE SYSTEMATIC READING OF HEGEL'S WORK

The fact that non-metaphysical approaches tend to centre on a particular work – such as the *Philosophy of Right* – to the exclusion of Hegel's others writings casts light on where the true difference lies *between* the non-metaphysical and metaphysical approaches. Namely, the debate between the non-metaphysical and metaphysical approaches is not that only the metaphysical approach accepts some degree of metaphysics in Hegel's work. Both approaches accept this fact. It is then not a question of *if* Hegel's work is metaphysical, but *how* metaphysical his work is, in fact. It is not a question of whether or not metaphysics can be found, but how much there is to be found. Thus, at the heart of this debate is not metaphysics, but a distinctive vantage point to the reading of Hegel's work. The non-metaphysical reading is, therefore, not a reading that denies *metaphysics*; but, rather, it is a reading that denies an explanatory role for Hegel's *system*. Therefore, the non-metaphysical approach is best understood as a *non-systematic* reading of Hegel's work. A non-systematic reading of Hegel's work views a given piece of Hegel's writing apart from Hegel's larger philosophical system. Systematic readings of Hegel's corpus view Hegel's writings within the context of his larger system.¹³

In order to clarify this crucial point, it is important to note some general features of Hegel's system and its alleged relationship with his *Philosophy of Right*. Hegel's system is presented in full within his *Encyclopaedia of the Philosophical Sciences in Outline*. The *Encyclopaedia* is composed of three

parts: *Logic*; *Philosophy of Nature*; and *Philosophy of Spirit*. Hegel clearly states that his *Philosophy of Right* is an elaboration of 'Objective Spirit [*des objective Geist*]' within the last part of the system, the *Philosophy of Spirit*.¹⁴ Thus, the *Philosophy of Right* is a part of his system of philosophy and meant to be understood as such. For example, Hegel says that the *Philosophy of Right*:

is a more extensive, and in particular a more systematic, exposition of the same basic concepts which, in relation to this part of philosophy, are already contained in a previous work designed to accompany my lectures, namely my *Encyclopaedia of the Philosophical Sciences*. (PR, p. 9)

As a part of the larger system of philosophy, Hegel is also quite clear that the *Philosophy of Right* should be understood within the context of the larger system and, in particular, its foundation in his conception of logic. He says, 'it will readily be noticed that the work as a whole, like the development [*Ausbildung*] of its parts, is based on the logical spirit. It is also chiefly from this point of view that I would wish this treatise to be understood and judged' (PR, p. 10 (translation modified)).¹⁵ Nor is this view surprising. In the preface to his system, Hegel first announces that 'my view . . . can only be justified by the exposition of the system itself' (PS, pp. 9–10). Any part of the system is meant to be understood within the context of the larger system. This is as true for the *Philosophy of Right* as it is for all other parts of Hegel's system.

Virtually all commentators accept Hegel's self-understanding of his project. That is, all agree that the *Philosophy of Right*, as *intended* by Hegel, is to be understood within the wider context of his larger philosophical system. Where commentators differ is on the question of how important the system is to understand the *Philosophy of Right* in actual fact. Thus, all commentators may agree that Hegel did *intend* his work to be understood in a particular way, but they disagree on how correct Hegel was to have this self-understanding of his own work. Those that adhere to the systematic reading of Hegel's writings work along with Hegel's self-understanding in explicating the features of his thought against the backdrop of his philosophical system. The second camp, or non-systematic reading, clearly contravenes Hegel's own self-understanding of his project in electing to view the component 'parts' of Hegel's writings independently of their wider context in a great philosophical 'whole'. In addition, the systematic reading holds that Hegel's system has explanatory power in understanding his work.¹⁶ This is denied by the non-systematic reading who argue, for example, that we can properly comprehend writings, such as the *Philosophy of Right*, independently of his larger system.

It should now be clear that the systematic and non-systematic readings offer distinctly different approaches to the study of Hegel's philosophy. Before returning to the question of the relationship of these readings to the metaphysical versus non-metaphysical debates, it may appear that the new systematic approach being described here (and defended in this book) is not so new after all. I am certainly not the first person to argue that Hegel's system plays an important role in our properly understanding his *Philosophy of Right*. This general position is also taken up in different ways and to varying degrees by others, such as Will Dudley, Stephen Houlgate, Michael Inwood, Michael Rosen, Stanley Rosen, Robert Stern, Robert Bruce Ware, and Robert Williams amongst others.¹⁷ However, my interpretation of Hegel's views differs from these scholars in several respects. First, the great majority are more attracted to other areas of Hegel's philosophy, namely, his epistemology and metaphysics, rather than his social and political thought. Hegel's *Philosophy of Right* has not been a primary focus for most interpreters favourable to a systematic understanding of Hegel's work. Secondly, those few commentators who have considered Hegel's political philosophy have not attempted a systematic reading with neither the clear understanding of their reading as a *systematic* reading of Hegel's work nor the scale of the study offered here which concerns all general parts of Hegel's *Philosophy of Right*. The systematic reading on offer is unique and distinctive to what we find in the literature, although it clearly builds off past related work.¹⁸

My systematic approach to understanding Hegel's *Philosophy of Right* is currently both controversial and unpopular. The more dominant view and near consensus of scholars working on Hegel's political philosophy is that a systematic reading is misguided. The non-systematic reading of Hegel's *Philosophy of Right* claims that the arguments Hegel puts forth in this work can be accurately reconstructed within the *Philosophy of Right* without substantive recourse to other parts of his system, and most especially without reliance on Hegel's logic that underpins his system. For example, following Paul Franco, the non-systematic approach claims that, while on the one hand, '[t]he argument of the *Philosophy of Right* is incomprehensible without some acquaintance with Hegel's logic', it is nonetheless true, on the other hand, that '[m]uch of the argument of the *Philosophy of Right* is intelligible on its own and can be evaluated without reference to the logic'.¹⁹ Similarly, Frederick Neuhouser argues:

even though Hegel's social theory is undeniably embedded within a more comprehensive philosophical vision – one that includes views about the nature of ultimate reality and the meaning of human history – it is

possible, to a surprisingly large extent, to understand his account of what makes the rational social order rational and to appreciate its force even while abstracting from those more fundamental doctrines.²⁰

Thus, again, the non-systematic reading does not deny that a robust understanding of Hegel's political philosophy clearly must take some account of its relationship with metaphysics.²¹ Instead, the non-systematic account argues that the *Philosophy of Right* is sufficiently comprehensible independently of Hegel's larger system and its logic. Other commentators who broadly share the non-systematic reading include Michael Hardimon, Dudley Knowles, Alan Patten, Steven Smith, Peter Steinberger, Charles Taylor, and Allen Wood, amongst others.²²

It must be said that the non-systematic reading has a particular virtue. That is, they ask us to 'buckle down to the study of the text of the *Philosophy of Right* and try to work out the context of his arguments as he elaborates it in that text'.²³ Their proponents often note that we can gain an improved understanding of Hegel's political philosophy in directly focusing our attention on this text, rather than diverting our attention elsewhere. Indeed, the non-systematic approach has not only revolutionised the popularity of Hegel's political philosophy, but brought with it a more intelligent understanding of the *Philosophy of Right* than previous attempts. Therefore, it is important that if a systematic reading were to replace non-systematic accounts, then this systematic reading should improve upon, not detract from, the many advances to our knowledge of the *Philosophy of Right* that non-systematic readings have offered us already.²⁴

III WHY IS THE NON-SYSTEMATIC APPROACH OFTEN A NON-METAPHYSICAL APPROACH?

One shared feature of the divide between systematic and non-systematic readings is that those who generally adhere to a systematic reading also adhere to a metaphysical reading; those who generally adhere to a non-systematic reading also adhere to a non-metaphysical reading. It might then seem that I am simply changing the names of each camp without making any contribution to help transform the debate. My reply to this worry is straightforward; that is, I have argued that the debate between metaphysical and non-metaphysical accounts does not centre on whether or not Hegel's account is or is not metaphysical. Instead, metaphysical accounts have amplified the role of metaphysics in Hegel's account where non-metaphysical accounts have tried to quieten the role of metaphysics. Thus, the

debate is over *how* metaphysical Hegel's account is in the *Philosophy of Right*, rather than *whether* his account is metaphysical.

In this section, I will explain how non-metaphysical readings have sought to contain and minimise metaphysics when interpreting Hegel's work, namely, by adopting a non-systematic approach. No commentator uses the term 'non-systematic', yet it accurately captures the heart of their position. Perhaps a classic statement in support of this reading is offered by Z. A. Pelczynski. He says:

Hegel's political thought can be read, understood, and appreciated without having to come to terms with his metaphysics. Some of his assertions may seem less well grounded than they might otherwise have been; some of his statements and beliefs may puzzle one; some intellectual curiosity may be unsatisfied when metaphysics is left out; a solid volume of political theory and political thinking will still remain.²⁵

Behind this reading of Hegel's *Philosophy of Right* is a desire to extricate this work (for example, the *Philosophy of Right*) from his system (for example, the *Encyclopaedia of the Philosophical Sciences* and its *Logic*, in particular)²⁶ as these commentators believe the system and its logic are fundamentally indefensible.²⁷ Thus, their collective position is that *if the Philosophy of Right* could be understood apart from Hegel's contentious system and its logic, *then* perhaps we can inoculate the *Philosophy of Right* from the defects and shortcomings of Hegel's system and its logic.²⁸ In other words, it will not matter if other parts of Hegel's system cannot be defended if we can demonstrate that these areas of Hegel's thought do not have any substantive impact on the contents of the *Philosophy of Right*. This desire to inoculate the *Philosophy of Right* is a primary motivation behind non-systematic readings of this work.

Allen Wood argues that there are at least three main reasons why we should avoid a systematic reading of Hegel's *Philosophy of Right*: (1) only a limited audience would become interested in Hegel's thought; (2) we would have to defend this system as a proper foundation for philosophy; and (3) in order to defend Hegel's views today, we would have to argue that his social and political thought should be of general interest even if his system has been discredited.²⁹ One reaction to this might be to ask several questions. Why is it relevant to understanding Hegel's texts that it should be done in such a way that we must increase his audience? Why should we be concerned about the size of our audience in the first place when interpreting the *Philosophy of Right*? If the system is indefensible and yet relevant to understanding Hegel's political thought, then why should we simply turn a

blind eye and ignore this system?³⁰ Why must we defend the views of anyone, and not least Hegel, on the grounds that they should be of general interest? For these reasons, I do not find Wood's three justifications for why we should adopt a *non-systematic* reading particularly persuasive as it stands.

Behind these worries looms a larger concern about making Hegel 'compelling'.³¹ For example, Dudley Knowles offers a well stated point:

The story that is told about the component institutions of Ethical Life will be persuasive, if and where it is persuasive, not because it obeys the canons of a dialectical logic but because it details how these institutions promote persons' aspirations to freedom.³²

Of course, the main question here is 'persuasive to whom?' In this and other instances, interpreters in the non-systematic camp imply 'persuasive to modern readers'.³³ A number of caveats are in order. In criticising the non-systematic approach, I do not mean to suggest that there is something wrong with seeking to draw greater attention to important figures and ideas. Nor would I want to give the impression that I believe there is something undesirable about interpreting the thoughts of others with at least a modicum of charity. Instead, I wish only to convey my view that this approach at least gives the appearance of placing greater emphasis on reinterpreting Hegel's positions as *defensible* rather than offering us a perspective on Hegel's various positions that Hegel would recognise *as his own*.³⁴

I do not deny that the business of discerning what a philosopher would (and would not) take to be his or her 'true' position on any given issue is a difficult and controversial task indeed.³⁵ In addition, I would agree with a further statement by a member of this non-systematic camp, Robert Pippin, when he says:

Without any systematic attempt to rely on the incredibly opaque details of the *Science of Logic* to understand Hegel's full or 'real' position, his claims about the historical character of human spirit . . . about the modern nation state, or even some aspects of his general antifoundationalist holism, can all be discussed more manageably, in their own right, as independently valuable insights.³⁶

My disagreement with the non-systematic view is when these 'independently valuable insights of Hegel' are dressed up as *Hegel's* view on a particular topic. Nor am I persuaded that we should avoid considering how

Hegel's system – even in the modest presentation offered in this book – informs the discussion of his *Philosophy of Right* on the grounds, according to Wood, that taking the system seriously 'would also dictate that you write a book not about Hegel's ethics but about his logic'.³⁷ Here Wood seems more interested in discussing only what is of contemporary relevance in Hegel's views (as 'Hegel's actual view', as it were), rather than giving us a more comprehensive reading that Hegel's explicit views may call for, in actual fact.³⁸ Wood may even ultimately concede this point, as he says: 'My principal aim in [*Hegel's Ethical Thought*] was to contribute to contemporary discussions of the history of ethics and ethical theory by showing the *direct* relevance of Hegel's thought to issues that still interest moral philosophers'.³⁹ Implied in this passage is the thought that areas of Hegel's thought that have *indirect* or *no* relevance to contemporary discussions were beyond Wood's consideration when presenting Hegel's positions on various issues in Wood's own work.

I do not deny that Hegel offers us valuable insights in his work independently of his larger philosophical system that may be of important contemporary interest.⁴⁰ What I deny is the adequacy of the non-systematic approach to offer us an accurate portrayal of positions in Hegel's political thought. It is worth noting here statements by Steven Smith and Allen Wood. Smith says:

But even while Hegel may have succumbed to the temptation of providing his views with some kind of metaphysical grounding, intellectual fashions change, and what was once considered a strength is now an embarrassing weakness. Yet rather than condemn Hegel to the dustbin of history, it remains possible to salvage his useful political insights from their speculative wrappings.⁴¹

A similar view is presented by Wood:

Because Hegel regards speculative logic as the foundation of his system, we might conclude from its failure that nothing in his philosophy could any longer be deserving of our interest. But that would be quite wrong. The fact is rather that Hegel's great positive achievements as a philosopher do not lie where he thought they did, in his system of speculative logic, but in a quite different realm, in his reflections on the social and spiritual predicament of modern Western European culture.⁴²

In both cases, Smith and Wood argue that we should avoid focusing on Hegel's system and its logic because it has fallen out of favour with

contemporary philosophers and *not* because the system and its logic lacks explanatory force in understanding Hegel's *Philosophy of Right*. To this end, they both seem more concerned with making Hegel plausible, rather than providing us with a more historically accurate picture.⁴³ I do not deny the value of such an approach. Indeed, a non-systematic reading of Hegel's *Philosophy of Right* may have a wider and more receptive audience than it might otherwise have received. The cost of its popularity is a sacrifice of a more accurate understanding of Hegel. Thus, the Hegel we may be most willing to embrace is a reconstructed Hegel, far removed from the real thing or, as Beiser argues, 'We make Hegel alive and relevant, a useful contributor to our concerns; but that is only because we put our views into his mouth. What we learn from Hegel is then only what have read into him'.⁴⁴

IV PLAN FOR THE BOOK

This book is divided into a series of chapters, each largely self-standing. It begins with an explanation of Hegel's system and the following chapters employ an analysis of various issues in Hegel's *Philosophy of Right* in light of its relation to the system. In every case, there is an emphasis on the context of each issue in question and the structure of Hegel's arguments. Moreover, each chapter challenges conventional readings of Hegel's *Philosophy of Right*, offering a new understanding of key issues, such as Hegel's views on property, punishment, morality, family, law, monarchy, and war. Each of these issues is discussed within its own chapter.

A few final qualifications may be in order before concluding this Introduction. First, it is nowhere my intention to defend Hegel's account,⁴⁵ but only to explain what is his account. In what follows, I believe there have been some rather serious misinterpretations of his views that my reading seeks to correct. My task is to present topics in Hegel's *Philosophy of Right* in a more robust and accurate account to help transform future debates on his work. It is not my task to try to modify Hegel's complete positions in order to make them more attractive to contemporary readers nor to explain them away. In my view, it is relatively unnecessary to defend the contemporary relevance of Hegel's political philosophy given the tremendous and widespread interest so many already have in his work, clearly demonstrating the relevance of his work for us. I leave the task of selling Hegel to others. Again, my aim is simply to offer an improved account of his positions that more accurately reflects his statements on these positions.

Secondly, my second task is to 'sublate' the so-called metaphysical and non-metaphysical debate in favour of a systematic reading which occupies

their middle ground. Of course, it is impossible to cover every important topic in Hegel's *Philosophy of Right*, although those this book does cover range over the entirety of the *Philosophy of Right* and, it is hoped, provide a very clear argument in favour of the new systematic approach I am putting forward. I nowhere claim that a more robust story cannot be told of how the system helps us understand the *Philosophy of Right*. This book seeks no more than to break new ground and forever change the views of commentators who believe we can understand the *Philosophy of Right* without reference to Hegel's larger system. I would certainly invite others to join me in promoting and expanding systematic readings of Hegel's *Philosophy of Right* and his many other works. However, my task in this book is more modest. Thus, I do not deny that an even more robust systematic reading of the *Philosophy of Right* is possible (we might call this a *strong* systematic reading) and I invite others to join in the project of developing this account. That said, my aim here is a more modest systematic reading of the *Philosophy of Right* (which we might call a *weak* systematic reading) that demonstrates the necessity of the systematic account. The first goal must be to transform readings of Hegel's work beyond metaphysical and non-metaphysical approaches toward a systematic (versus a non-systematic) approach before further development can take place.

I hope that in this Introduction I have made my intentions clear. The current debate between so-called metaphysical and non-metaphysical readings is a false debate because it pretends to centre on the issue of whether or not metaphysics is a part of Hegel's account. Instead, these opposing camps do not deny the *existence* of metaphysics for Hegel, but *how much* metaphysics we might find. I have argued, therefore, that not only are the terms 'metaphysical approach' and 'non-metaphysical approach' misleading, but that we should jettison them in favour of, respectfully, the 'systematic approach' and the 'non-systematic approach'. This latter characterisation best captures what is at stake in this current debate. In the chapters that follow, I will offer a defence of the systematic approach to the study of the *Philosophy of Right*.

Controversies over Hegel's work normally move from one position to its opposite and then settle at a middle position. I believe that this is true with the metaphysical debate likewise. In the end, a systematic approach seeks to bring out the best in both approaches and occupies a position in between metaphysical and non-metaphysical accounts.⁴⁶ It neither denies a space for metaphysics in Hegel's work nor aspires to amplify the role of metaphysics. Instead, it seeks no more than to continue the good work of the non-metaphysical reading in improving our knowledge of the *Philosophy of Right*'s contents, while following in the tradition of the metaphysical reading

by offering an account of Hegel's philosophy that it is keeping with Hegel's own self-understanding of his project. Discussion of this project is possible without diverting our attention far from the pages of the *Philosophy of Right*. Whether or not the systematic reading is an improved reading will be borne out in the chapters below. As they say, the proof is in the pudding. This is no less true for books on Hegel's philosophy.

CHAPTER I

System

I INTRODUCTION

Hegel never intended his *Philosophy of Right* to stand on its own, but instead it was meant to be read against the backdrop of his larger philosophical system, which he lays out in his *Encyclopaedia of the Philosophical Sciences*. Hegel's intentions are clear from the first passages in the preface to the *Philosophy of Right*, where he says:

This textbook is a more extensive, and in particular a more systematic, exposition of the same basic concepts which, in relation to this part of philosophy, are already contained in a previous work designed to accompany my lectures, namely my *Encyclopaedia of the Philosophical Sciences*. (PR, p. 9)

The *Encyclopaedia* outlines Hegel's philosophy with respect to a large variety of topics, including logic, nature, politics, and religion. Hegel wrote supplementary texts for use in his lectures that expanded his treatment of topics in the *Encyclopaedia* at much greater length throughout his career. The *Philosophy of Right* is itself such a text, providing 'a more extensive . . . exposition of the same basic concepts . . . already contained' in the *Encyclopaedia* as we have seen above. In particular, the *Philosophy of Right* is a greater exposition of Hegel's views on politics found in sections §§483–552 of the *Encyclopaedia*, a part of the system that Hegel calls 'Objective Spirit [Objektiv Geist]'. It is clear that the *Philosophy of Right* was written as an integral part of Hegel's larger philosophical system.¹ This fact alone is cause to take seriously a systematic reading of the *Philosophy of Right* that interprets this text within the context of Hegel's wider system.

It is also equally clear that Hegel intended his audience to interpret the *Philosophy of Right* precisely, within the context of his system. He says:

I have presupposed a familiarity with scientific method . . . it will readily be noticed that the work as a whole, like the construction [*Ausbildung*] of its parts, is based on the logical spirit. *It is also chiefly from this point of view that I would wish this treatise to be understood and judged.* (PR, p. 10 (emphasis added))

Any interpretation that deviates from this perspective should be treated with 'indifference' because it is reading Hegel's work out of context (PR, p. 23). Hegel not only held this position on how the *Philosophy of Right* should be read and understood, but all of his work: 'my work . . . can only be justified by the exposition of the system itself' (PS, pp. 9–10). A primary task of this chapter is to explain Hegel's views on logic and how they provide the 'scientific method' that give unity to his philosophical system.

Hegel's clear self-understanding is that his work is part of a larger philosophical system. All his mature writings flesh out this vision and they will be our focus for the remainder of this book.² Individual texts are not independent texts, but component parts of a greater whole to be interpreted within the context of this larger system. Hegel intends his audience to engage in *a systematic reading* of his work. The systematic reading holds that texts should be understood in relation to the wider system.³ By contrast, a non-systematic reading of Hegel's work would interpret an individual text independently of his larger system in contravention of Hegel's clear self-understanding of his project.

Commentators disagree over two issues. First, there is disagreement on the proper interpretation of Hegel's system and its logic. For example, some understand Hegel to be engaged in 'a sheer neo-Platonic fantasy', while others claim his logic has minimal metaphysical commitments.⁴ Secondly, commentators *agree* that Hegel's self-understanding is how I have described it above; however, they *disagree* on the question of whether or not applying a systematic reading of Hegel's *Philosophy of Right* will make the text more intelligible and improve on contemporary interpretations.⁵ Thus, no one doubts what Hegel claims for his system. Indeed, for example, Allen Wood notes readily that 'Hegel is the most methodologically self-conscious of all philosophers in the Western tradition'.⁶ We would then expect to offer an interpretation that makes good Hegel's self-understanding given his extraordinarily high degree of methodological self-consciousness. What commentators doubt is that such an interpretation will shed greater light on what we already know of Hegel's *Philosophy of Right*.

In this chapter, I will present only a very general picture of Hegel's system and its logic. My aim is to provide a view that is acceptable both to commentators who believe Hegel presents a strong metaphysical account

and those who believe that he does not. I will argue that on whichever side we find ourselves we can agree upon certain basic features of Hegel's system and the *Philosophy of Right's* place within this system. These features include an understanding of (a) the dialectical structure of Hegel's arguments and (b) the technical vocabulary Hegel employs in his arguments. The following chapters will then demonstrate that if we can agree on this general picture of Hegel's system and its relationship to the *Philosophy of Right* we can enrich our understanding of the *Philosophy of Right* and open up new readings of this text closer to both his self-understanding and the text of the *Philosophy of Right* itself. Of course, whether or not my project is successful will depend on how far readers are persuaded by my accounts of particular topics in the *Philosophy of Right*.

The plan for this chapter is as follows. I will offer a general background explanation of Hegel's system and its logic with the primary aim of making clear the relationship between Hegel's system and his *Philosophy of Right*. I will begin with an analysis of Hegel's logic which underpins his wider system. This discussion will be followed with an explanation of how the logic relates to his wider system and then how this system relates to the *Philosophy of Right*.

II LOGIC AND SYSTEM

In 1816, Hegel published the first edition of his *Encyclopaedia of the Philosophical Sciences*, which was later expanded in later editions, culminating in its publication in three separate volumes in the third edition of 1830. This work contains an outline of Hegel's complete philosophical system. We can then speak interchangeably of 'the *Encyclopaedia*' and 'Hegel's system of philosophy' because the two are one and the same.

The first part of the system has become known as the *Encyclopaedia Logic* as, namely, the first volume of the *Encyclopaedia* whose subject-matter is 'speculative' logic.⁷ Not unlike much of Hegel's system, Hegel wrote an expanded version of the *Encyclopaedia Logic* entitled the *Science of Logic*, which appeared (as volume one) in 1812 and (volume two) in 1816. The second edition of the *Science of Logic* was then published in 1831. Thus, the *Encyclopaedia Logic* and the *Science of Logic* were developed alongside one another over a timeframe of nearly two decades. In what follows, I will refer to them both interchangeably as Hegel's singular 'logic', differentiating them only in specific reference to one or the other. It is plausible to discuss them together because one is merely an elaboration of the other and they are virtually identical in form and content.⁸ Nevertheless, for Hegel, only the *Science of Logic* presents his 'fully developed' understanding of logic

(PR, p. 10). Interestingly, this does not deny that a more developed logic or system is possible. Hegel reminds us:

I could not pretend that the method which I follow in this system of logic – or rather which this system in its own self follows – is not capable of greater completeness, of much elaboration in detail; but at the same time I know that it is the only true method. (SL, p. 54)⁹

Hegel is then open to even further development of his logic beyond his own presentation of it. However, it clearly remains the case that he considers his *Science of Logic* the most extensive treatment of logic that he accepts as true.

Hegel's logic plays a fundamental role in the development of his larger philosophical system.¹⁰ The logic is meant to provide us with the structure of rationality. Once we comprehend the shape of this structure we can then 'apply' this logic to uncover the rationality existent with regards to nature (in a *Philosophy of Nature*) and human affairs (in a *Philosophy of Spirit*). In this section, I will first offer an explanation of the aims and ambitions of Hegel's logic. I will next explain the relationship between the logic and the larger philosophical system. My purpose is to provide a background understanding of Hegel's project that is relatively uncontroversial amongst Hegel scholars. This understanding will provide the main features of the systematic reading of Hegel's work that I will employ in the following chapters.

The logic aims to provide us with an understanding of rationality: it is 'the science of *thinking*' (EL, §19).¹¹ Hegel often characterises his logic as 'a speculative logic', where 'speculative' is understood as 'nothing but the rational' (EL, §82A). Speculative logic is a way of thinking without presuppositions: 'thoughts as thoughts, in their complete abstraction' (SL, p. 34).¹² Logic is understood to be presuppositionless insofar as it demands that we suspend our assumptions about the world and rationality.¹³ Hegel asks us to consider thought in its purity in order to discern its full developmental structure. The knowledge of this structure underpins the entirety of his philosophical system.

For Hegel, philosophy is to be understood as 'a thinking consideration of objects' (EL, §2). The development of our thought about the existence of an object is matched by the reality of the object. We do not simply 'think', but, instead, we think *of something*, such as an object of thought.¹⁴ This object becomes more real for us in proportion to the progressive development of our thoughts of this object. Thus, for example, Hegel will speak of a state being 'bad' to the degree that it is 'untrue' or not 'actual'.¹⁵ For this reason, Hegel argues that 'the content of philosophy is *actuality*' and philosophy is the self-conscious comprehension of all that rationally exists, or 'the Idea'

(or ‘the absolute truth and all truth’) (*EL*, §§6, 236).¹⁶ This ‘Idea’ is thought in its ‘self-developing totality of its own peculiar determinations’ (*EL*, §19).¹⁷

Hegel explains the relationship between actuality and reality in his famous ‘double saying [*Doppelsatz*]’:¹⁸

What is rational is actual;
and what is actual is rational. (*PR*, p. 20)

Hegel explains this relationship in the following way:

It is *this very relation of philosophy to actuality* which is the subject of misunderstandings . . . since philosophy is *exploration of the rational*, it is for that very reason the *comprehension of the present and the actual*, not the setting up of a *world beyond* which exists God knows where. (*PR*, p. 20)

These passages make clear that Hegel is offering a distinction between what exists and what *actually* exists. The task of philosophy is to distinguish to what degree something *actually* exists. We do not need philosophy to tell us what exists as such, but need only to look out of our windows. The task of discerning what actually exists, on the contrary, is a more delicate task. We comprehend what is actual when we grasp its rationality, or development in thought. The further we find an object of thought along a trajectory of rational development, then the more actual we might say this object is for us. Thus, ‘what is actual is rational’ and *vice versa*. Furthermore, our comprehension of an object of knowledge is a development of thought itself. We can then say that our project is then ‘of the present and the actual’ (*PR*, p. 20).

The development of Hegel’s logic takes a famous, yet peculiar, shape. Hegel begins by noting the peculiar status of pure being. Pure being is being in its utter purity, lacking any particular characteristics. In lacking characteristics, pure being appears as a pure nothingness (see *EL*, §87). A pure nothingness is the absence of characteristics. If pure being is being without characteristics, then the two seem equal. This fact is a matter of some significance for Hegel, as this equality of pure being and pure nothingness is thought to generate a transition from the category of pure being towards the category of pure nothingness (*EL*, §88; *SL*, p. 82).

The object of our study – pure being – has not undergone a change itself. Instead, the change is with regards to our thinking consideration of pure being. We began with a conception of pure being as pure being. Our understanding of pure being is henceforth transformed into a *new* understanding of pure being as, instead, pure nothingness. The object has not

changed, but our thought of it has changed. Nor is this the end of the development.

Hegel notes that the transition from pure being to pure nothingness presents us with a seeming contradiction. How can 'being' be equal to 'nothing'? We can resolve this apparent conflict by recognising that while pure being *appears* to be equivalent to a pure nothingness, pure being is not simply a nothing but a nothing from which we proceed beyond nothing to the category of 'becoming' (SL, p. 73; see SL, p. 93). Our first movement was from pure being to pure nothingness upon understanding pure being as a nothingness, lacking characteristics. We now move to the third category of becoming in recognising that pure being is not equally a pure nothingness *in their truth*, but that what is before us is *neither* a pure being lacking in all characteristics *nor* pure nothingness – instead, it is a *something* (see SL, pp. 82–3).

This movement of thought from one category to a second category is a *development* as our thinking consideration of the object has developed beyond our initial consideration.¹⁹ After the development, we can recognise that pure being is also a pure nothingness. This is an advance in our knowledge, however abstract its nature. Our advance in knowledge is an *immanent*, rather than an external, development. We have not added anything from outside the object in our consideration. Instead, we patiently allow the development of our knowledge of the object to arise from within itself. In this way, Hegel argues that all categorical transitions point beyond themselves.²⁰ When we move from one category to another we, following Stephen Houlgate, 'render explicit what is implicit in those earlier categories'.²¹ We allow thought to develop itself from its own resources, rather than 'follow a route that has been marked out for it in advance'.²² Finally, each movement is necessary: we move from one and only one category from a previous category.²³ Pure being leads us *necessarily* to pure nothingness. The necessity of this movement is a further confirmation of the immanent structure of thought that it unfolds for us within a presuppositionless consideration of thought itself. Thus, 'one *learns* from logic *how to think*' given the fact that the developmental structure of rationality presented by Hegel often moves away from our everyday commonsensical expectations (SL, p. 26). Hegel argues that his speculative logic is a 'philosophical manner of progressing from one topic to another' (PR, p. 10). In other words, what is crucial in Hegel's account is not merely the fact *that* we progress from one category to another category, but *how* we progress from one to the next.

The movement from the category of pure being to the categories of pure nothingness and then becoming is a peculiar movement. The structure is organised between an apparent contradiction between two opposites whose

opposition vanishes into a third category. This threefold structure is Hegel's infamous dialectic. The dialectic explicitly does *not* follow a structure (properly attributable to Fichte's *Science of Knowledge*) of thesis-antithesis-synthesis:²⁴ commentators who claim Hegel's philosophy ends in a 'synthesis' reveal their poor understanding of Hegel's logic.²⁵ Indeed, Hegel rejects 'synthesis' on the grounds that the third movement does not bring two things together in an internal unity, because it treats the first two movements as externally related (see *SL*, p. 96). Instead, for Hegel, the third movement *sublates* [*Aufheben*] the first two categories and, in so doing, preserves their relationship while pointing towards a new third category. Hegel explains: "'To sublate" has a twofold meaning in the language [of speculative philosophy]: on the one hand it means to preserve, to maintain, and equally it also means to cause to cease, to put an end to' (*SL*, p. 107; see *EL*, §96A). For Hegel, sublation is 'one of the most important notions in philosophy', playing a central role in his logic (*SL*, p. 106). A characteristic of sublation is that it allows us to speak of 'a negation of a negation' as a positive movement.²⁶ For example, pure being's initial conceptual movement was towards its opposite, pure nothingness. This is the first negation. The negation of this negation takes place in the further movement from pure nothingness to becoming. In this movement, pure being's uniqueness *and* its apparent identity with pure nothingness are *both* effectively cancelled. For Hegel, this 'negation of a negation' generates a positive result from within thought's own resources, accommodating the previous categories while immanently producing a new category. Categories are created from previous categories according to this dialectical structure.

Hegel's explanation of the movement from one category to another category is at once a logic *and* a metaphysics. Recall that, for Hegel, the development of logic is a development of both our thought and the actuality of our object: the greater our comprehension, the more actual it becomes for us. Thus, John Burbidge is correct to argue:

That is why the logic is true of the world, why it can be called a metaphysics: because it is the essential structure, now made self-conscious, of all that the world actually does . . . It comprehends all that is.²⁷

Indeed, it is clear that Hegel's self-understanding of his logic is that it is a metaphysics. He says, 'Thus *logic* coincides with *metaphysics*, with the science of *things* grasped in *thoughts*' (*EL*, §24). Elsewhere he tells us that his logic 'constitutes metaphysics proper' (*SL*, p. 27). Logic is metaphysics because the former presents us with the proper tools – namely, the

dialectical structure of thought – to discern the true actuality of all that exists.

The 'metaphysical' picture of Hegel's project has come in for some heavy criticism. Many contemporary commentators reject the view that Hegel's logic is metaphysical and instead claim it is an 'ontology'.²⁸ This is despite the fact that most, if not all, commentators accept that there is metaphysics to be found in Hegel's philosophy.²⁹ Instead, these commentators claim that we can understand Hegel's metaphysics in a different sense that is less mysterious and controversial.³⁰ This view borrows from an understanding of a 'non-metaphysical' view we find in the work of John Rawls. He says:

Thus, the aim of justice as fairness as a political conception is practical, and not metaphysical or epistemological. That is, it presents itself not as a conception of justice that is true, but one that can serve as a basis of informed and willing political agreement between citizens . . . To secure this agreement we try, so far as we can, to avoid disputed philosophical, as well as disputed moral and religious, questions.³¹

Rawls distinguishes between metaphysical and non-metaphysical views. A metaphysical view is needlessly controversial, as well as presenting itself as a 'true' view. The picture presented above of Hegel's speculative logic appears to clearly violate both these conditions. The logic is controversial in the construction of its dialectical project and claim to discern actuality from mere existence. Moreover, speculative logic purports to give a true understanding of the structure of our thought. However, opacity and truth-claims are not specific to metaphysics and their presence does not warrant our rejection of a particular view as a 'metaphysical' in some unacceptable way.

Terry Pinkard offers a different perspective on metaphysics in Hegel's logic. Pinkard says:

The Absolute for Hegelian *Logic* is therefore that set of categorial principles for thinking about systems of the world . . . These categories express the way the world is; they are not representations of the world which may or may not match up with the way the world is.³²

Pinkard is arguing that Hegel's views are not metaphysical in the sense that there are not Platonic views. That is, the actuality in the world that speculative logic allows us to discern is not an actuality in the sky, but gives expression to the world as it is before us on the ground. Hegel, then, does not appeal to an ideal that does not exist in the world and, therefore,

does not offer us a Platonic picture, Hegel's logic is non-metaphysical. However, this picture, too, is not entirely defensible as Hegel's views on logic are used to argue in favour of a variety of ideals that are not substantiated in the world, at least at present. For example, the *Philosophy of Right* itself is an exposition of 'the Idea of the state', a vision of the state that serves as an ideal, but one that has never existed.

Nevertheless, Hegel's logic can be understood as metaphysical in the obvious sense that it is a study of being and its development:

metaphysics is nothing else but the entire range of the universal determinations of thought, as it were, the diamond net into which everything is brought and thereby first made intelligible. Every educated consciousness has its metaphysics, an instinctive way of thinking, the absolute power within us of which we become master only when we make it in turn the object of our knowledge. (EN, §247A)

We may prefer to designate this enterprise as an ontology rather than a metaphysics if only to suggest that the enterprise is not needlessly controversial. Nor is the view that Hegel's logic is metaphysical in this general sense a particular subject of wider debate amongst even non-metaphysical readings of Hegel's work.³³ This reading is summed up well by Justus Hartnack: 'Hegel's logic is thus an ontological logic. Whatever is, is determined by the categories'.³⁴

In any event, the point I would like to emphasise is that *both* a weak *and* a strong reading of metaphysics of Hegel's logic can recognise that it is concerned with the development of thought within a dialectical structure. What is crucial to my systematic reading of Hegel's work is that we at least agree only on the basic features of this structure. Thus far, the picture of Hegel I have presented can be accepted by either someone who holds a metaphysical view or someone who holds a non-metaphysical view.³⁵

It is worth highlighting the fact that Hegel's *Phenomenology of Spirit* is not part of his larger system. It is true that Hegel originally entitled the work as the 'first part [Erster Teil]' of what was to be a 'system of science [System der Wissenschaft]', but it is equally clear that he abandoned this view shortly afterwards. The relationship of the *Phenomenology* to the rest of the system is as an entrance exam. It is a test for those who have presuppositions about the world that they are unable to suspend, in order to begin with Hegel's *Logic* and follow the development of thought that is unfolded there. The *Phenomenology* charts alternative perspectives on how we know the world and demonstrates the inadequacy of all of them. For this reason, Hegel calls this discussion 'the pathway of *doubt*, or more precisely as the way of despair' (PS, p. 49).³⁶

So the *Phenomenology* serves as a test we must pass in order to begin a new life within Hegel's larger system (see *PS*, pp. 492–3). It is not a part of the system itself.³⁷ A systematic reading of Hegel's work, therefore, does not give the *Phenomenology* pride of place when interpreting texts that compose Hegel's larger system. In fact, it is of relatively minor significance for understanding Hegel's views on the system even if it remains one of his most popular texts today as a general introduction to his thought. Instead, following Houlgate, 'Those who are prepared to suspend their ordinary certainties can bypass the *Phenomenology* and proceed directly to the *Logic*'.³⁸ Moreover, Terry Pinkard tells us that the *Phenomenology* is 'a ladder that one kicked away once one had arrived at the proper heights' of Hegel's system.³⁹ Despite its wide popularity, the *Phenomenology* does not play a significant part in our understanding of Hegel's philosophical system.⁴⁰

We now have a sufficient background with which to proceed. A systematic reading of Hegel's work interprets this work within the context of Hegel's philosophical system. This system is presented in his *Encyclopaedia* and elaborated at greater length in various works, including the *Philosophy of Right* and excluding the *Phenomenology of Spirit*. What unites the system is its peculiar dialectical structure centred on speculative logic. Within this structure, we find the unfolding of thought and being in unity within a progressive movement where each movement is necessitated by each preceding movement. These movements of thought compose a rational structure centred on difference and unity.

Of fundamental importance, the dialectical structure generated from Hegel's speculative logic informs the entirety of everything that follows in his philosophical system. Hegel says:

Since the unity of being and nothing as the primary truth now forms once and for all the basis and element of all that follows, besides *becoming* itself, all further logical determinations: determinate being, quality, and generally all philosophical Ideas, are examples of this unity. (*SL*, p. 85 (translation modified))

The full range of categories presented in Hegel's system develop from one category to the next according to the dialectical structure of logic. In fact, the organisation of categories within this structure is necessary in order for the categories to capture the immanent development of rationality.⁴¹ The rational structure we find in Hegel's logic is 'applied' beyond logic in his wider philosophical system. Hegel says:

the other philosophical sciences – the Philosophy of Nature, and the Philosophy of Spirit – appear, in contrast, as applied logic, so to speak, for the Logic is their animating soul. Thus, the concern of those other sciences is only to [re]cognize the logical forms in the shapes of nature and spirit, shapes that are only a particular mode of expression of the forms of pure thinking. (EL, §24A2)⁴²

Logic clearly serves a foundational role in providing a rational structure for Hegel's system. The movement between categories does not rest with categories existing in pure thought alone, but categories we can discern in the world, such as space, organicism, free will, and the state. We comprehend the existence and necessity of each of these categories precisely as we have categories of pure thought, namely, in the relationship of all categories with all other categories within a wider dialectical structure. Our task is to recognise the dialectical structure that informs our world and already exists, rather than determine how this structure should unfold according to a preconceived notion.⁴³

From this general understanding of Hegel's larger project, we can understand the essential attributes of any reading that takes this project seriously. Hegel's system charts the movement of one category to another. Each category is necessitated by preceding categories. Any robust understanding of any category in Hegel's system must take seriously the *place* of categories within the larger structure. Earlier categories have an explanatory role in the necessary development of categories that emerge later. We can only understand any category in its relationship with other categories.

The relationship between categories is at many levels. One level is the relationship between the three general component parts of Hegel's system. Thus, there is a dialectical relationship between the *Logic*, the *Philosophy of Nature*, and the *Philosophy of Spirit*.⁴⁴ A second level is the relationship within each of these three larger parts between their three individual main internal component parts. For example, there is a dialectical relationship within the *Philosophy of Spirit*'s divisions between subjective spirit, objective spirit, and absolute spirit. Additionally, there is a third level that exists within each second level division, again in three parts. Thus, the *Philosophy of Spirit*'s section entitled 'objective spirit' has itself three parts – abstract right, morality, and ethical life – that relate to one another within a dialectical structure. Each of these parts, such as 'abstract right', is itself composed at a fourth level of three component parts sharing likewise in a dialectical relationship with one another. The magic of Hegel's dialectical progression is that each and every category relates to another category in a dialectical manner and that these categories compose higher level groupings

of categories that relate similarly across even higher levels. The general ordering within a dialectical relationship is fairly straightforward, although its full presentation is more complex. It is hardly surprising that amidst such a complicated and involved architectonic so many commentators should go awry.

One necessary feature of any systematic reading (weak or strong) is its awareness of the peculiar structure of Hegel's argumentation. Thoughts do not simply follow one another, but are determined as categories within a dialectical, rationalist framework.⁴⁵ This framework encompasses the entirety of Hegel's philosophical system and it details the full developmental structure of thought.⁴⁶ A systematic reading of Hegel's work recognises the relationship between categories and across levels. This reading is self-consciously aware that to interpret any given feature of Hegel's system requires an understanding of that feature's context within the larger philosophical system. A failure to recognise this context is doomed to lead to an incomplete, if not entirely false, comprehension of any given feature in Hegel's larger system. This truism holds across all areas of the system and it is no less true in one area than another area.

A systematic reading must be sensitive to the structure of Hegel's arguments. Part of this sensitivity necessitates an appreciation of Hegel's technical vocabulary with which he expounds his arguments.⁴⁷ In particular, Hegel's logic introduces the various terms and concepts that are central to understanding any part of the wider system, not least the *Philosophy of Right*. These terms and concepts include 'universal',⁴⁸ 'particular',⁴⁹ and 'individual',⁵⁰ as well as 'actuality',⁵¹ 'the idea',⁵² and 'sublation' [*Aufheben*]⁵³ amongst many others. These terms are expanded upon elsewhere in his system, building off their introduction in logic. If we want to best understand what Hegel means by 'individuality' or 'sublation' in the *Philosophy of Right* or elsewhere, then we should at least be aware of how these terms originate in speculative logic and are then employed elsewhere in the system. Of course, logic is not the only place where Hegel develops his technical terminology. Indeed, some of these terms – such as 'right' [*Recht*]⁵⁴ and 'morality' [*Moralität*]⁵⁵ – originate in the sections of the system expanded upon in the *Philosophy of Right* itself. However, parts of the system other than logic also introduce new terminology central to understanding the *Philosophy of Right*, most notably Hegel's concept of 'spirit' [*Geist*],⁵⁶ as well as 'right' [*Recht*] and 'will' [*Wille*]⁵⁷ in the *Philosophy of Spirit*.⁵⁸

This section has provided only a general view of Hegel's philosophical system and the relationship between this system and its speculative logic. My presentation is not meant to be complete in every detail, but only to

provide the background perspective that motivates a systematic reading of Hegel's work. A systematic reading of this work may endorse competing views of the particular features of logic's development or the presence of metaphysics in Hegel's account. The weak systematic reading offered here seeks to focus no more than on a sensitivity to the dialectical structure of Hegel's presentation of features in his larger system. A necessary part of any robust interpretation of these features must account for their place within Hegel's philosophical system. No part of Hegel's work can be read in complete isolation from its greater context. In addition, a systematic reading must in tandem be sensitive to Hegel's technical vocabulary which itself develops throughout the system. My discussion here no more than signifies why a systematic reading can be justified, offering a picture of its general features. The defence of this reading is offered in each of the following chapters below.

III THE *PHILOSOPHY OF RIGHT*

We have now discussed the general relevant features of Hegel's speculative logic within his greater philosophical system and identified the main characteristics of a systematic reading of Hegel's work. Before concluding this chapter and moving toward the following case studies, it is important to be very clear that (a) the *Philosophy of Right* can be interpreted as part of the system and (b) Hegel's self-understanding is that we would interpret this text in that way. If either (a) or (b) is true, then a systematic reading of the *Philosophy of Right* becomes possible. If both (a) and (b) are true, then a systematic reading is not only possible, but consistent with both Hegel's self-understanding and the structure of the text of the *Philosophy of Right*.

First, it is clear that the *Philosophy of Right* can be interpreted as a part of Hegel's larger philosophical system. The *Philosophy of Right* is an elaboration of sections §§483–552 in the *Encyclopaedia*, covering the section 'Objective Spirit'. This is in keeping with other texts which elaborate different sections of his *Encyclopaedia*, a project which Hegel engaged in for much of his career. Thus, his *Science of Logic* is clearly an elaboration of *Encyclopaedia Logic*. Similarly, the *Philosophy of Right* is an elaboration of 'Objective Spirit' in the wider *Encyclopaedia*.

Both 'Objective Spirit' and its elaboration in the *Philosophy of Right* are presented within the same three divisions (abstract right, morality, and ethical life), each division lying in a dialectical relationship to one another leading toward the role of a state within world history. Furthermore, when we examine each of these three divisions in both places – for example, 'Objective Spirit' and the *Philosophy of Right* – we discover the same essential

subdivisions are present. For example, both subdivide the section 'abstract right' with component sections on property, contract, and wrong. These subdivisions lie in the same dialectical relationship. The structure of Hegel's presentation of both 'Objective Spirit' and the *Philosophy of Right* are the same and, thus, his argumentation for component features in both texts is also the same. We can clearly offer an interpretation of the *Philosophy of Right* within the context of Hegel's larger philosophical system. The *Philosophy of Right* is without doubt a part of the rationalist structure of the system.⁵⁹

Secondly, it is equally clear that Hegel *intended* his *Philosophy of Right* to be interpreted by a systematic reading of the text. Hegel argues that 'it will readily be noticed that the work as a whole, like the development [*Ausbildung*] of its parts, is based on the logical spirit. It is also chiefly from this point of view that I would wish this treatise to be understood and judged' (PR, p. 10 (translation modified)).⁶⁰ Throughout the *Philosophy of Right*, Hegel is at pains to remind the reader that they must possess a familiarity with the workings of his larger philosophical system if they are to make best sense of the *Philosophy of Right*.⁶¹ It is because he assumes this familiarity that Hegel does not offer an account of the *Philosophy of Right's* dialectical structure. He says:

Since I have fully developed the nature of speculative knowledge in my *Science of Logic*, I have only occasionally added an explanatory comment on procedure and method in the present outline . . . I have presupposed a familiarity with [this] scientific method. (PR, p. 10)

If we want to best understand the internal relationship of the individual parts of the *Philosophy of Right*, then we must comprehend the dialectical structure that informs the whole of Hegel's philosophical system. Not only is the *Philosophy of Right* explicated in terms of this particular structure, but a complete justification and explanation of the employment of this structure in the *Philosophy of Right* is assumed by Hegel (see ES, §408A). When commentators speak of Hegel's dialectical method in the *Philosophy of Right*, they must to some degree then offer a systematic understanding of this dialectic as it is incompletely presented in the *Philosophy of Right* as such. Similarly, an accurate understanding of not only the *structure* of the *Philosophy of Right*, but also the *place* of this text within the wider system, is only assumed by Hegel to be known to his readers.⁶² A systematic reading of the *Philosophy of Right* is then not only warranted by its dialectical structure, but also by Hegel's explicit self-understanding.

In conclusion, a systematic reading of Hegel's *Philosophy of Right* is not

only possible, but consistent with Hegel's self-understanding of his project. The *Philosophy of Right* is a more complete elaboration of a particular section of the larger philosophical system. There are no major differences between this section and the *Philosophy of Right*. Furthermore, Hegel is exceptionally clear in his self-understanding that readers interpret the *Philosophy of Right* in a systematic way, within the context of his larger system. Non-systematic readings of the *Philosophy of Right* violate both a contextual understanding of its place and Hegel's stated intentions of its reception. A systematic reading of the *Philosophy of Right* seeks to correct both errors, as well as provide a more insightful understanding of Hegel's political philosophy.

IV CONCLUSION

Hegel's clear and widely evident self-understanding of his own philosophical project is that his *Philosophy of Right* should be read and understood as one part of his larger system of speculative philosophy.⁶³ If we endeavour to take Hegel's views seriously, then it necessitates our having a clear understanding of the relationship between the *Philosophy of Right* and the larger system. This chapter has offered a general and relatively uncontroversial understanding of Hegel's system, his *Philosophy of Right*, and their relationship. The following chapters now endeavour to demonstrate what a reading of the *Philosophy of Right* within the greater context of Hegel's system looks like and what we gain from this systematic reading.

It is worth noting from the beginning that the systematic reading I am offering is what we might call a *weak* systematic reading of the *Philosophy of Right*, rather than a *strong* systematic reading. A weak systematic reading proceeds along the path I have outlined here, employing a general picture of Hegel's system and its relationship to the *Philosophy of Right*. It is my belief that such a picture can be accepted by so-called non-metaphysical readers and these readers are my primary concern. After all, it is the non-metaphysical reading that masquerades as a non-systematic reading. None of this is to suggest that a stronger systematic reading cannot be offered that highlights far more connections between Hegel's system and the *Philosophy of Right*. A strong systematic reading would entail more space to note additional specific features of the system. I am sensitive to the concerns of non-systematic commentators that a systematic reading would spend so much time away from the *Philosophy of Right* that we then examine the *Philosophy of Right* in insufficient detail. A strong systematic reading is then at least *equally* plausible as the weak systematic reading. However, the primary task at hand is convincing those who adopt a non-systematic reading of Hegel's *Philosophy of Right* that *any* systematic reading of this text

will bring interpretive benefits. I believe a weak systematic reading can clearly demonstrate these benefits, while offering a general understanding of Hegel's project that is relatively uncontroversial for non-systematic commentators. The aim of the systematic reading offered here is not simply to offer a plausible interpretation of the *Philosophy of Right*, but to *convince* of the need of a systematic reading.

In the chapters which follow, I will provide new interpretations of specific topics in Hegel's *Philosophy of Right* that are sensitive to the system's particular argumentative structure and rich technical vocabulary. This reading entails interpreting each topic within the context of the greater system, a task abandoned by nearly all commentators on Hegel's political philosophy.⁶⁴ These commentators offer readings of Hegel's views on 'punishment', 'morality', and other topics largely confined to a single part of his *Philosophy of Right*. Examples abound.⁶⁵ In contrast, if my approach is correct, a more robust reading views these individual topics as parts of a greater whole where the whole plays an explanatory role in developing our understanding of any individual part.

The proof of any reading is 'in the pudding'. The following chapters serve as case studies on Hegel's *Philosophy of Right* that demonstrate the need for a systematic reading of this important text. As case studies, the chapters below are meant to provide examples of how a systematic reading improves upon the contemporary literature. The chapters may be read in any order and each are self-standing. Some chapters make more explicit use of the relation of the system and its logic beyond the *Philosophy of Right* (for example, punishment and family) than other chapters (for example, law and war). However, all chapters demonstrate the new possibilities available to us in taking Hegel's system more seriously. Throughout, I invite readers to consider how a systematic reading might be developed further. My only purpose in these chapters is simply to convince the reader that a (weak) systematic reading is possible and beneficial. We need not continue the so-called 'metaphysical' versus 'non-metaphysical' debate.⁶⁶

CHAPTER 2

Property

I INTRODUCTION

Hegel's views on property are one of the most misunderstood aspects of his thought. We can best correct these misunderstandings only by interpreting his comments on property in full light of their place in the *Philosophy of Right* and the place of the *Philosophy of Right* within Hegel's larger philosophical system.

Hegel's *Philosophy of Right* is divided into three parts, each related to one another dialectically.¹ These parts are 'abstract right [*abstrakte Recht*]' (PR, §§34–104), 'morality [*Moralität*]' (PR, §§105–41), and 'ethical life [*Sittlichkeit*]' (PR, §§142–360). Most commentators have restricted their analyses of Hegel's theory of property primarily to the section abstract right in his *Philosophy of Right*.² Others have mistaken Hegel's views on property in abstract right as a theory of private law.³

Few substantively appreciate that Hegel offers an extended view of property built around very different concerns in his later discussion of 'civil society [*die bürgerliche Gesellschaft*]' contained in the final part of the *Philosophy of Right*, 'ethical life'.⁴ Perhaps more importantly, it has gone relatively unnoticed how Hegel's discussion of the free will in 'Subjective Spirit' found in his larger philosophical system (ES, §§440–82) relates to his discussion of the free will in 'Objective Spirit' immediately following (ES, §§483–552). This is important for an interpretation of the *Philosophy of Right* given that this text is an elaboration of 'Objective Spirit'.

An initial test of a systematic reading of the *Philosophy of Right* is whether it can contribute to our understanding of the *Philosophy of Right* by demonstrating the explanatory force of the wider philosophical system. In this brief study, my aims are relatively modest. I will begin by explaining how the section 'Subjective Spirit' is related to the *Philosophy of Right*. Central to this explanation is the development of the free will from one section to the other. This view helps us make best sense of the primary

problem of the *Philosophy of Right*, namely, how the free will can will freely, and not arbitrarily. The following section explains why Hegel's views on property ownership in abstract right are primarily illustrative of the initial development of the free will, rather than a complete theory of property as many have maintained. If my position is correct, then we cannot present a picture of Hegel's theory of property that exclusively considers abstract right nor can we understand abstract right as a realm of private law. This position is best arrived at after grasping the relation of the abstract right within the *Philosophy of Right* and Hegel's larger philosophical system.⁵

II WHY BEGIN WITH ABSTRACT RIGHT?

Most commentators take the beginning of Hegel's *Philosophy of Right* largely for granted, or simply find it too confusing.⁶ It is easy to see why this is the case. Hegel begins the first major section of this text by stating that the 'will which is free in and for itself' is 'abstract' and in need of development into a more concrete will (PR, §§34, A). Hegel then tells us that we must grasp our will in its 'immediate existence' if we are to develop the will, and here property ownership plays a central role (see PR, §§40, R, 41). These opening moves are far from clear and indicative of the difficult terminology Hegel too often employs. However, many take such passages in abstract right as Hegel's complete theory of property. I disagree.

In this section, my task will be to demonstrate precisely why the *Philosophy of Right* begins with a discussion of property and what this analysis is meant to establish. The first part of this task entails becoming clear about the full context. In Chapter 1, we noted that Hegel's self-understanding of the *Philosophy of Right* is that it is part of his larger philosophical system. More specifically, it is an elaboration of 'Objective Spirit' in the third and final part of his larger system, the *Philosophy of Spirit* (see ES, §§483–552).⁷ Preceding 'Objective Spirit' is Hegel's analysis of 'Subjective Spirit' (see ES, §§440–82). Thus, Hegel's philosophical system progresses from subjective to objective spirit. The *Philosophy of Right* is a further development of 'Subjective Spirit' and directly related to it.

The *Philosophy of Right* is centred on the comprehension of 'right [Recht]': 'The subject-matter of the philosophical science of right is the *Idea of right*' (PR, §1). Our comprehension of right is grounded in the development of the will as a free will (see PR, §4). The initial development of the free will appears in 'Subjective Spirit'. Its purpose is to demonstrate the existence of the free will (see ES, §§481–2).⁸ In the *Philosophy of Right*, Hegel reminds us that we must look to 'Subjective Spirit' in order to see his arguments for the free will (see PR, §4R). These arguments provide the complete background and set the

scene ahead of Hegel's subsequent discussion of 'Objective Spirit', which is later elaborated in full within the *Philosophy of Right*. In fact, Hegel summarises 'Subjective Spirit' in his introductions to both 'Objective Spirit' and the *Philosophy of Right* (see ES, §483; LNR, §§3–10, 34R; PR, §§4–28). It is then never in doubt which perspective Hegel wants us to begin at in the *Philosophy of Right*. We are to begin with the free will.

This perspective presents us with the key problem the *Philosophy of Right* is designed to address. That is, Hegel takes himself to have already established that we each are in possession of a free will. This is demonstrated in 'Subjective Spirit'. In this section, he argues that our use of free will is an activity: 'I do not merely will – I will *something*' (PR, §6A). The problem is that when our free will wills something, this something may be selected arbitrarily. Thus, Hegel says, 'Since I have the possibility of determining myself in this or that direction – that is, since I am able to choose – I possess an arbitrary will' (PR, §15A). The free will is not then a 'free will [*freie Wille*]' in its truth, but an 'arbitrary will [*Willkür*]' instead. The use of our free will does not live up to its promise, characterised by arbitrariness rather than freedom (see PR, §§10A, 13A).

Hegel takes this situation to present us with a contradiction in thought, in keeping with the rationalist structure that informs the entirety of his philosophical system (see PR, §§15R, 17). This contradiction is only resolved by gaining a comprehension of 'the free will which wills the free will' (PR, §27). The ability to understand how our free will can will freely, not arbitrarily, is the key problem that the *Philosophy of Right* is designed to solve. Everything that follows has the single aim of charting the development of freedom from the starting point of the free will.

A free will that is truly free is transformed into the higher category of 'right [*Recht*]' (ES, §486). The free will as right begins as 'abstract right' in its immediate existence. The free will becomes concrete right when embodied in the state (see ES, §487). The *Philosophy of Right* takes as its starting point the free will and seeks to demonstrate how it can gain actuality as right (see LNR, §3; PR, §28). For Hegel, right is simply 'the existence of the free will' and, thus, freedom (PR, §29).

This discussion should make clear the context of the first part of the *Philosophy of Right*, entitled 'abstract right'. Its purpose is to remove arbitrariness from the free will in its determination into right. Hegel's discussion of property in abstract right is evidence of this fact. He does not present us with a theory of property as such, but the most fundamental manner we might remove arbitrariness from the activity of the free will. For Hegel, property ownership is the first part of his views on abstract right. He says:

Right is primarily that immediate existence [*Dasein*] which freedom gives itself in an immediate way, (a) as *possession*, which is *property*; freedom is here the freedom of the abstract will *in general*, or, by the same token, the freedom of an *individual* person who relates only to himself (PR, §40).

In other words, our most fundamental comprehension of our freedom in the world is in property ownership. This comprehension is entirely personal and atomistic, failing to include others. That is, we first grasp our freedom in the world as *our* freedom when we take possession of a thing. When we take possession of some thing, we create an external space where our freedom can become manifest (PR, §41; see LNR, §16). The taking of possession is then a significant achievement. Our freedom is no longer purely internal to our consciousness of it; but, instead, freedom begins for the first time to have an external freedom as well.

III ON TAKING POSSESSION

The manner by which we take possession of a thing appears similar to familiar classical arguments of property ownership.⁹ Hegel says, 'A person has the right to place his will in any thing [*Sache*]. The thing thereby becomes *mine* and acquires my will as its substantial end (since it has no such end within itself)' (PR, §44; see §54). It might appear that Hegel is following in the footsteps of John Locke and his theory of property. Locke argues that an object becomes mine when I 'mix' my labour with it.¹⁰ Thus, my right to property is a product of my labour.¹¹ Moreover, my labour gives things their monetary value. For example, a tree in the forest possesses minimal worth. The tree gains in value when I chop it down and turn it into a desk or a guitar through my labour: in my activity, a part of me is embodied in the object and it is transformed into my property with a specific value.

Hegel is not offering us a similar theory of value. Instead, his concern is solely with the possibility of giving the free will an external existence.¹² This is a very different philosophical project. When I shape the world insofar as I claim something as mine, this activity is the most fundamental way that my free will becomes external and actualised. Thus, Hegel's theory of property in abstract right is concerned with the development of self-consciousness and not property value.¹³ As a result, he says that '[w]hat and how much I possess is therefore purely contingent as far as right is concerned' (PR, §49). The value of objects is related to the satisfaction of needs (see PR, §§63–4). This is addressed in civil society, not abstract right (see PR, §§189–208). In abstract right, what and how much I possess is of little importance because

neither are central to our concerns. That is, Hegel's discussion is not meant primarily to provide us with a theory of property. Instead, its aim is to provide us with a standard by which we may develop the free will to will freely.

At this stage, the problem remains that when I take possession of something and give my free will external existence, my will remains arbitrary (see *ES*, §492). I have not yet discovered a rational criteria by which I can develop my freedom. Instead, I have created the possibility of such a criteria in property ownership. Hegel argues that the existence of freedom is found in the relation between the wills of two separate individuals. Ownership is not something I decide upon by myself however I see fit, but something that is determined 'within the context of a common will' shared between two persons (see *PR*, §71).

Thus far, Hegel's discussion of the will has been concerned only with the will of a single person in isolation and abstraction from the larger society. His claim is that the most fundamental way this person can conceive of his free will in the world is in property ownership. The problem is that what we consider to be our property is decided purely subjectively. We eliminate this pure subjectivity in forging a 'common, universal will' with another person (see *LNR*, §§33, 35R; *PR*, §71, A). When two persons generate agreement, they together overcome their subjectivity and make genuine freedom possible (see *ES*, §413A). This simple model informs much of the subsequent development of the free will in abstract right and beyond.

Hegel calls the mutual recognition between two people 'contract' (see *PR*, §§71–5). In contract, the particular wills of two people unite in sharing a common will when they agree to particular contractual stipulations (see *PR*, §§78A, 79, R). The nature of this agreement is rational as it is a meeting of two persons acting in communion, not randomly. Moreover, these persons act rationally insofar as they freely consent to agreement. That is, their mutual recognition of one another is something each chooses without coercion (see *PR*, §76A). Their agreement may concern ownership of an external object, but it is an *internal* agreement (see *ES*, §493). The free wills of each individual become united through mutual recognition of one another.

In order to gain a better view of how this works, consider the following example. Imagine that you come across a coffee mug and elect to take possession of it. Your act is a free act: you could have easily done otherwise. In taking possession of the mug, the mug is transformed from something purely external into a relation with you. It is no longer one object in the world indistinct from others, but an object with which you identify as your own. The mug becomes yours in being used by you. That this mug is yours

and, say, not mine, is an arbitrary matter. You simply claim it as your own and there is no standard beyond your powers of decision.

However, if someone were to recognise your ownership of the mug, then something important would transpire: your possession of the object becomes *less* arbitrary. That is, it is not a purely contingent fact, but a fact generated through the agreement of two persons with the capacity for free choice. When two people agree, it sets the stage for the further determination of my freedom insofar as it transforms my activities from purely subjective acts into less subjective, and more objective, acts.

Our problem in abstract right is that we have a free will, but our activities are purely arbitrary. We begin to move beyond pure arbitrariness when we find agreement with another person. A foundational way we can comprehend this movement is to offer an example that utilises property ownership. However, note that whether or not we talk about coffee mugs, mansions, or anything else *what* we take possession of is immaterial. Central to this picture is the development of the will and *not* property itself. Hegel uses the discussion of property and contract only to best *illustrate* how the initial development of the free will away from pure arbitrariness might take place. It is not primarily a theory about property, but a theory about the development of the free will.

Hegel's discussion of property is not then what we might have expected to find. A theory of property normally focuses upon the satisfaction of needs. We would, for instance, expect to have a theory with a view on distributive justice. On the contrary, Hegel's consideration of property in abstract right is not intended to speak to our material needs nor our enjoyment of property (see *PR*, §41A; *SEL*, p. 119). Instead, property ownership and contract point to the initial ways in which the free will can become actual.¹⁴ The project of the *Philosophy of Right* is then centred on the comprehension of the complete rational structure within which the free will can will the free will. Hegel says:

in the *Philosophy of Right* . . . we begin with something abstract, namely with the Idea of Will; we then go on to the actualization of the as yet abstract will in an external existent, to the sphere of formal right. (*ES*, §408A)

The *Philosophy of Right* is entirely about our understanding of the free will from its most basic to its most advanced development.

Hegel begins his consideration of the free will in relation to property and not other subjects, such as the family or the state. We might then be misled into thinking that the family or the state are grounded on property. After

all, if property comes before them, then it would appear that it is property that makes possible everything that follows. However, this would be a mistaken view. Hegel is not presenting us with a chronological order of the state's composition. Instead, he is doing no more than charting the full development of the free will from its most abstract consideration in thought to its most concrete realisation. The fact that Hegel's discussion of the family follows abstract right is not evidence that the family is only possible after abstract right; but, rather, that the family is a more developed sphere of freedom than abstract right (see *ES*, §408A; *LNR*, §14).¹⁵

Hegel's views on property in abstract right concern the development of the free will.¹⁶ His full theory of property is presented only later in 'ethical life' (see *ES*, §385A). Thus, following Richard Teichgraeber, what characterises property ownership in abstract right 'is the effort to possess, not actual possession'.¹⁷ This view is captured well by John Rawls when he says:

Note first that Hegel leaves aside any appeal to the advantages of private property, either to individual persons or to society as a whole . . . Nor does he appeal to what people might want to do with their property . . . Less obviously, Hegel doesn't appeal to a psychological need of persons for private property, as if somehow they couldn't develop into free citizens unless private property were permitted.¹⁸

Hegel's treatment of property in abstract right is not a complete theory of property by any means. Instead, Hegel uses a discussion of property ownership *as an illustration* primarily in order to advance an explanation of how the free will can begin to overcome arbitrariness. This is *not* to argue that Hegel will reject *tout court* what he says about property relations in abstract right when he discusses property later in the *Philosophy of Right*.

It is important to note even briefly the many differences that will arise in Hegel's later treatment of property (see *PR*, §§182–208). For one thing, Hegel is here concerned with the material needs of individuals, not least their necessity to earn a living and support their families. Secondly, civil society is not a realm of equality, unlike abstract right. In civil society, our needs differ and these are reflected in our different representation in various corporations, even different estates. Moreover, perfect equality is impossible in civil society: 'equality in civil life is something absolutely impossible' (*PH*, p. 145). Whatever else we might say about Hegel's complete theory of property, we must be clear that there is a real significant difference to be found between civil society and abstract right. We cannot limit any full view of his theory of property ownership to abstract right alone.

My discussion has tried to make one fundamental distinction clear:

Hegel's comments on property in abstract right are not a complete theory of property and neither does Hegel intend this to be the case. Abstract right is the first part of the *Philosophy of Right* and it is where we first attempt to overcome the arbitrariness of the free will. It is not the case that abstract right is entirely successful either. That is, two people who mutually recognise one another as property owners in abstract right may have second thoughts about their recognition or be mistaken about their recognition (see *PR*, §§81A–83). Clearly, far more work is in order to develop an account of how the free will might will the free will objectively. Nevertheless, mutual recognition becomes the condition for the further development of the free will. Individuals engage in wrongful acts insofar as they disengage in mutual recognition with others (see *PR*, §§84–6).

Our reading of Hegel's views on property have taken seriously the wider context of these views. The *Philosophy of Right's* consideration of property in abstract right is set against the backdrop of the problem (located in 'Subjective Spirit') that warrants the need for the *Philosophy of Right* (elaborating 'Objective Spirit'): how can the free will will freely? Hegel uses property ownership as an illustration of how we can first begin to answer this important question. Whatever else abstract right may be, it is a place where two individuals meet in mutual recognition and in abstraction from the larger community. Nor is abstract right about property *per se*; but, rather, it is about charting the initial developments of the free will as embodied right.

It is unsurprising to find that this highly abstract background has confused many of Hegel's best interpreters. For example, Andrew Reeve argues that Hegel does not attempt to justify property: 'rather he is concerned to *explain* it . . . presupposing an abstract individual confronted by an external world who finds his home as a citizen of a rational state'.¹⁹ This view fails to recognise that Hegel is not even explaining property as such, but using examples involving property acquisition to illustrate his argument for how we first move beyond pure subjectivity of the free will. Likewise, Christopher Berry is mistaken to claim 'Property of itself is freedom; it needs no functional justification'.²⁰ Hegel is not justifying property as such in abstract right, but merely using it as an illustration. Property does have a functional justification in the maintenance of the family and in civil society (see *PR*, §§170, 182–95).

What is more, abstract right is neither a social order nor a realm of law.²¹ There is no society in abstract right, only two persons abstracted from their community engaged in mutual recognition. No laws regulate their activities, only contractual stipulations each mutually agrees. It is the case that Hegel does consign an area of the state as a sphere of autonomous activity in the

state, namely, religious institutions (see GC, p. 22). However, it is not the case that Hegel recognises a sphere of private law as many commentators have argued.²² Thus, we might define private law, following Alan Brudner, as ‘an ordering of human interactions that is independent of an ordering by the common good’.²³ However, it is very clear that only in ethical life do human beings interact with one another in their actuality and all laws and institutions are limited to ethical life, not abstract right (see PR, §§142, 144). Therefore, commentators are mistaken to believe either private or public laws exist in abstract right. They are also mistaken to accept this view from Michael Salter: ‘Abstract right insists that all relevant legal arguments must refer back to the strictly legal meaning of doctrinal precedents expressed in primary materials, such as statutes and case-law’.²⁴ Statutes and case-law are products of civil society alone and not abstract right (see PR, §§211–29). There are neither laws nor any court-recognised regulations to be found in abstract right. *All* such regulations are exclusively found in Hegel’s views on law in civil society (see Chapter 6).

Where these commentators go awry is in their failure to appreciate the context of abstract right and its discussion of property. Again, it is not part of society and nor does it aspire to offer a full account of property. Our task is to comprehend how the free will can will freely, not arbitrarily. Hegel employs property ownership as an illustration to help demonstrate how the free will can initially perform this task. It is not the case that Hegel’s comments on property in abstract right are contrary to his more considered treatment in civil society. Nevertheless, my primary aim is only to clarify the fact that Hegel’s account of property ownership in abstract right is at best an incomplete theory of property. Commentators are mistaken to argue that law exists in abstract right and equally mistaken to argue that abstract right is primarily about generating property relations. An understanding of how abstract right fits into the larger context of Hegel’s philosophical system makes these flaws clear.

IV CONCLUSION

This concludes our look at Hegel’s views on property. Our analysis was limited to a consideration of property ownership in abstract right only and we have shed important new light in this area. Many commentators mistakenly hold that Hegel’s complete views on property are contained in abstract right. Instead, we have noted that his views extend to civil society where they are different in character to what we find in abstract right. That is, civil society considers property from the standpoint of need and abstract right considers property primarily illustratively. The result is

that we should not read Hegel's discussion of property in abstract right in order to develop a complete theory of property. Instead, this discussion is only meant to chart the initial development of the free will as it seeks to will the free will. This is the central problem of the *Philosophy of Right*.

We become most sensitive to these issues when we adopt a systematic reading of the *Philosophy of Right*. A systematic reading takes seriously the relationship between the *Philosophy of Right* and Hegel's larger system. Hegel's treatment of property in abstract right proves an excellent first case study. The *Philosophy of Right* begins by noting its connection to the wider philosophical system and its introduction offers a brief summary of the main contents of 'Subjective Spirit'. 'Subjective Spirit' is found in Hegel's system immediately before 'Objective Spirit' and the *Philosophy of Right* is an elaboration of 'Objective Spirit'. In summarising the contents of 'Subjective Spirit', Hegel clearly believes that there is an important connection between this section of his larger system and the *Philosophy of Right*.

The importance of this connection is found in the free will. The section 'Subjective Spirit' demonstrates the existence of the free will. Its problem is that it is unable to offer an account of how the free will can will freely, rather than arbitrarily. This task is taken up by 'Objective Spirit' and, thus, the *Philosophy of Right*. The first section of both 'Objective Spirit' and the *Philosophy of Right* is 'abstract right'. In abstract right, our task is to comprehend how the will can develop rationally with freedom. Hegel uses property ownership as an illustration to argue for the importance of mutual recognition. What is of importance is the development of the will, rather than what is taken as property, its potential value, or its capacity to satisfy needs. Thus, Hegel presents us with a highly curious view of property independent of community activity, ignorant of its value, or satisfaction of needs. We err when we claim this view of property as Hegel's complete view. A systematic reading makes this view clearer.

CHAPTER 3

Punishment

I INTRODUCTION

Amongst contemporary theorists, the most widespread interpretation of Hegel's theory of punishment is that it is a retributivist theory of annulment, where punishments cancel the performance of crimes.¹ The theory is retributivist because it holds both that (a) criminals can be punished only if punishment is deserved and (b) the value of punishment must be proportional to the nature of its corresponding crime, rather than to any consequentialist considerations. Thus, Antony Duff says:

[Retributivism] justifies punishment in terms not of its contingently beneficial effects but of its *intrinsic* justice as a response to crime; the justificatory relationship holds between present punishment and past crime, not between present punishment and future effects.²

Punishment is only given to persons responsible for committing crime. Therefore, the possession of criminal desert is both a necessary and sufficient condition for punishment.³ In addition, the value of this punishment is set in proportion to the value of the precipitating crime. Thus, retributivism can be understood as an *individualistic* theory because the only relevant factors pertain solely to the individual criminal himself. That is, the retributivist punishes in proportion to what *this* criminal deserves relating to the badness of his intentions in performing a past act. Factors beyond the criminal's intentions, such as any negative consequences of his crime or his lack of popularity amongst the public, are irrelevant to determine retributivist punishment.

The general attraction of Hegel's retributivism is that the punishments his theory is thought to endorse are commensurable in value with precipitating crimes, in contrast to the common criticism of alleged strict equivalence in Kant's theory of punishment. As a result, Hegel's theory is

praised both for its greater acceptability to modern readers over Kant's so-called 'pure retributivism', as well as being an 'emphatically anti-utilitarian' theory.⁴ Despite widespread agreement on these general features, how exactly we are to cancel crimes through punishment is hotly contested, not helped in the least by Hegel's difficult style. For example, Ted Honderich says, 'A punishment is an annulment, a cancellation or a return to a previous state of affairs . . . All this, of course, is obscure. It is by Hegel'.⁵

Nevertheless, I believe that there are important difficulties in all of these interpretations. On nearly all accounts, Hegel's *most* substantive discussion of punishment occurs in the section entitled 'abstract right [*das abstrakte Recht*]' at the beginning of his *Philosophy of Right* (PR, §§90–103). This reading of Hegel is in large part due to the popularity of a well known essay by David Cooper where he says: 'In this essay I discuss Hegel's theory of punishment for its own sake. I am not concerned with its relation to the rest of the *Philosophy of Right*, and even less with its place in the dialectic as a whole'.⁶ Cooper's discussion of Hegel's theory is limited to only Hegel's comments on punishment in 'abstract right'.

The main problem with the standard interpretation of Hegel's theory of punishment is that the section 'abstract right' does not exhaust his entire treatment of punishment. Since Cooper's original essay, commentators recognise that Hegel discusses punishment beyond 'abstract right' and his more complete theory of punishment is developed within his theory of civil society instead.⁷ Unfortunately, contemporary theorists have found this later treatment of punishment to be, in the words of John Findlay, 'in no way remarkable, apart from its unequivocal stress on the equality of persons before the law'.⁸ Furthermore, Peter Stillman says:

neither morality nor society yet exist at the level of abstract rights, where Hegel primarily discusses punishment. Hegel does introduce further, non-abstract right aspects of punishment later – a law code, some concern with intention, pardon, crimes against the state, and a system for the administration of justice – but these produce only minor additions and no essential changes to the theory of punishment at abstract right – except, of course, to make the abstract into the concrete and existent.⁹

Yet, it is in Hegel's later treatment that he recasts how we determine punishments for crimes. He does not reject the retributivist core in his earlier treatment of punishment – that is, a person can be held liable for punishment only if culpable and that there is a proportional relationship between the values of a crime and its punishment. However, Hegel recasts

how we determine the value of a punishment in explicitly social terms, rather than retributivism's characteristic individualism.¹⁰ I will argue that his later treatment of punishment may endorse different punishments whose function may not always be retributivist and how this view coheres with his earlier treatment.¹¹ Thus, I will both reject the view that Hegel's most substantive treatment of punishment is contained in 'abstract right' and that his full treatment has only a retributivist function and is not open to additional functions, such as deterrence and rehabilitation.

This chapter is organised in the following way. I will begin with an examination of 'abstract right' and the role of punishment in this section of the *Philosophy of Right* before turning our attention to a consideration of how the role of punishment changes later in the *Philosophy of Right*.

II 'ABSTRACT' RIGHT

Hegel viewed his *Philosophy of Right* as a part of his larger philosophical system.¹² Readers are presumed to have some familiarity with his logic which provides a foundation for the system (see *PR*, §§4R, 8R).¹³ For Hegel, logic develops itself through clarifying categories that correspond to reality (*SL*, p. 37).¹⁴ The necessary relationship of one category to the next is essential to the self-development of logic, such that each conceptual 'movement' is justified and not arbitrary (*EL*, §99A). The development of these movements charts the progress we make in clarifying categories from an abstract to a more concrete and true conception of reality. Peculiar to this development is the claim that each conceptual advance contains all those preceding it. Therefore, the starting point of logic's development is not left behind through progress, but remains preserved throughout the complete development (*SL*, p. 71).

This development culminates in what Hegel calls 'the Idea', or 'truth' (*PR*, §§10, 21). Each conceptual advance is 'true' in relation to the Idea as a whole (see *PR*, §§2, 31R).¹⁵ For Hegel, the Idea is more than a simple aggregate of its numerous developments, but an interrelated whole.¹⁶ Each individual development towards this whole is 'abstract' or 'incomplete' (*SL*, pp. 198, 414). The closer each development is to this whole, the more 'actual' or 'concrete' it is.

These general features of his philosophical system are important to bear in mind when interpreting the *Philosophy of Right*, as its subject-matter is the concept of right and the manner through which it develops into an 'Idea of right' (*PR*, §§1, 29). In other words, the central focus is on each development of right leading from an abstract to a more concrete comprehension, with the final development able to account for each previous determination and

not vice versa. Hegel's project is to discover the various determinations of right in their proper context (PR, §2R, 19).¹⁷ The initial, or abstract, determination of right is not removed from a higher comprehension; but, it serves instead as a necessary presupposition for all further developments (PR, §32A). For Hegel, right is not developed independently, but through the will of human beings (PR, §4). The will is reason that seeks external expression through reflective involvement with the world, rather than only with itself.¹⁸

For Hegel, our comprehension of right must begin from its most basic conception: abstract right. Its focus is the existence of personality, that is 'the capacity for right' (PR, §§33, 36). Hegel attempts to explain how our will first manifests itself externally in property ownership. What is central to his discussion is the activity of the will, not the physical acquisition of property (PR, §§55R, 217R).¹⁹ In possessing property, my will enjoys an external sphere in which it can be recognised by other human beings (PR, §§51, 57R).²⁰ This recognition becomes manifest in a relation to other persons, will to will (PR, §71). The relation takes the form of a contract whereby each individual will finds common ground with another will, forming a common will uniting them (PR, §78A). The creation of a common will develops one's capacity for right beyond one's pure subjectivity. As a result, Hegel says, 'The rational aspect of property is to be found not in the satisfaction of needs but in the superseding of mere subjectivity of personality' (PR, §§41A, 71, R, A).

For Hegel, it is an open question whether or not persons who freely create a common will honour their agreements. Thus, contracts remain 'susceptible to wrong': the violation or non-performance of certain contractual agreements (PR, §81A). In Hegel's view, the creation of a common will is a positive thing as individuals come to agreement. Indeed, he argues 'it is the nature of humanity to press onward to agreement with others' (PS, p. 43). Persons who are unable to come to agreement with others are akin to animals, unable to base their judgements on anything beyond their own feelings. When we decide not to honour contractual agreements, this is a negative movement as our wilful activity prioritises arbitrary choice over common agreement.²¹ Hegel calls this 'wrong' as right exists only contingently, asserted and denied at the discretion of private individuals (PR, §§81, 82).²²

III PUNISHING IN 'ABSTRACT RIGHT'

As a response to wrong, Hegel argues that right must be made effective. He says:

But the truth of [wrong] is that it is null and void, and that right re-establishes itself by negating this negation of itself. Through this process

of mediation whereby right returns to itself from its negation, it determines itself as *actual* and *valid*, whereas it was at first only *in itself* and something *immediate*. (PR, §82)

We must address wrongs by overcoming purely arbitrary wilful activity by refusing to recognise it as valid. In so doing, we cancel, or ‘negate’, the influence of wrong on the development of right. Crucially, this discussion regards the reaffirmation of the common will as a superior arbiter of right rather than the purely subjective will.

With this discussion in mind, Hegel distinguishes three varieties of ‘wrong’: unintentional wrong, deception, and crime.²³ Unintentional wrongs are simply mistaken agreements, the least harmful kind of wrong (PR, §86A). Their relative harmlessness consists in the fact that no common will had ever been formed between the two parties. Deception, however, is a more serious wrong because no commonality is shared truly, as one party agrees to a contractual stipulation with another only through dishonesty (PR, §§87–8).

The most serious wrong is crime, characterised by a criminal’s rejection of another will’s capacity for rights (PR, §95). The criminal acts in such a way that he recognises only himself as having a capacity for rights, interacting with others however he pleases. Hegel describes the proper response to crime as the ‘cancellation [*Aufheben*] of crime’ (PR, §101). Here Hegel uses the German word *Aufheben* which is often translated into English as ‘sublation’. According to his *Science of Logic*, *Aufheben* has ‘a twofold meaning . . . on the one hand it means to preserve, to maintain, and equally it also means to cause to cease, to put an end to’ (SL, p. 107). In the present context, the sublation of crime involves both the cancellation of wrong and the preservation of the common will. Thus, Hegel speaks of punishments as ‘the negation of a negation’ whose end is ‘the restoration of right’ (PR, §§97A, 99).

Indeed, Hegel does refer to this ‘cancellation of crime’ as ‘retribution’ (PR, §101). However, this is only the case, he adds:

in so far as [retribution] . . . is an infringement of an infringement, and in so far as crime, by its existence [*Dasein*], has a determinate qualitative and quantitative magnitude, so that its negation, as existent, also has a determinate magnitude. (PR, §101)

This relationship between crime and its punishment is not strictly equal, but equal ‘in terms of its *value*’ (PR, §100). It is important to note that this relationship is purely conceptual (PR, §100R).²⁴ Hegel’s discussion of

punishment in abstract right is never meant to be understood as anything more than a theoretical treatment of the subject.²⁵ Indeed, his purpose has been only to demonstrate retribution as the *primary* ground justifying corrective treatments: 'that which is *retributive* implies veritable imputation of guilt' (PH, p. 128). When we impute guilt to deserving persons, we 'honour' the criminal insofar as we treat her as rational by holding her responsible for what she does (PR, §100R). For these reasons, Hegel rejects the justice of punishing the innocent on all grounds.²⁶

Yet, despite these retributivist claims, it is not clear how strongly Hegel adheres to them. On deterrence, he says famously: 'To justify punishment in this way is like raising one's stick at a dog; it means treating a human being like a dog instead of respecting his honour and freedom' (PR, §99A).²⁷ However, I would like to suggest that Hegel's argument is only against deterrence as the *primary* justification, or 'real ground', for punishing.²⁸ In fact, Hegel is not opposed to various forms actual punishments may take in 'their proper context' to be developed within a more substantive comprehension of right (PR, §99R). Hegel's retributivism is no greater than the claims that punishment can be distributed only to guilty persons and that there is a relationship between the particular wrong and its punishment.

More importantly, it should be clear that if this was a complete account of Hegel's theory of punishment, it would be of little use to us. For example, punishments in abstract right arise in reaction to the existence of 'wrong'. By 'wrong', Hegel refers to a wilful disregard for mutual recognition. Punishments aspire to 'restoring (abstract) right'. However, the (abstract) rights punishments seek to preserve exist only contingently and at the discretion of private individuals. Indeed, this is also true for the act of punishing. For this reason, Hegel clearly states that acts of punishment at the level of abstract right are acts of revenge, as there is no designated penal power:²⁹ 'Where there is no state, there is revenge'.³⁰

Moreover, not only are there no proper judicial institutions available for the administration of justice, there are no *laws* either. If the majority of commentators on Hegel are correct to say that his theory of punishment is substantively contained in abstract right, then 'crimes' and their corresponding 'punishments' are matters entirely *independent* of the rule of law and judicial institutions. In addition, these commentators cannot make sense of a second commonly held thought about Hegel's theory of punishment: namely, that Hegel's complete view of punishment is laid out in his theory of civil society where his judicial system of courts transform revenge into legal punishment.³¹ It is difficult to see how the courts can have a role in a theory of punishment that does not consider its relation to positive laws.

Finally, retributivism is a theory of punishment that gives pride of place to desert: the moral culpability of an offender. It is then highly curious that abstract right lacks any substantive analysis of desert. This analysis comes after abstract right in Hegel's later section entitled 'Morality [*Moralität*]'. Indeed, Hegel admits that in abstract right 'it makes no difference what my principle or intention was' (PR, §§106A, 113R). To be clear, it is very difficult to see the discussion on punishment in abstract right as a complete retributivist theory of punishment given that Hegel's consideration of purpose, intention, responsibility, and morality all appear elsewhere (see PR, §§105–41). Not only does Hegel's theory of punishment presented in abstract right seem problematic as a theory of *legal* punishment, but it seems problematic as a distinctly *retributivist* theory as well.

Thus, in the section 'abstract right' in the *Philosophy of Right*, we have a peculiar picture of punishment put forward. What Hegel understands as 'punishment' is not at all what we would understand as *legal* punishment, principally because it is not a response to lawbreaking. Instead, what we might call '*abstract* punishment' is no more than a response to the existence of 'wrong'. (We shall see later that '*concrete* punishment' is a response to lawbreaking in the next section.) Wrong merits a response because it is necessary that we ground the activity of free will with the free will of others in a process of mutual recognition. This activity is the agreement of particular stipulations between two persons; wrong is the failure to abide by such an agreement. Abstract punishment seeks no more than to promote and safeguard mutual recognition, helping to fulfill Hegel's project of demonstrating how the free will can be a free will without descending into arbitrariness. Moreover, all that matters is that our response be warranted by the wrongful activity of another. The form our response may take need not then be retributivist in nature so long as we engage only with those who have performed a wrong.

IV PUNISHING VIOLATIONS OF LAW

The implications for how Hegel ultimately attributes punishments for violations of positive laws – rather than contractual stipulations – are rarely addressed specifically.³² When we consider the use of punishment at the level of what Hegel calls 'the objective actuality of right' as opposed to 'abstract right', punishments are deserved only by persons who have transgressed a state's positive law.³³ Thus, *actual* punishments (or what we might call *concrete* punishments) are warranted by violations of law rather than abstract, contractual stipulations. One attractive feature of Hegel's theory for many commentators is its apparent flexibility on the final

form that punishment may take. As stated above, punishments can only be determined approximately according to value, rather than a strict equality (PR, §101, R). Hegel, therefore, rejects any imposition of the *lex talionis*.³⁴

However, Hegel does *not* hold that even a good state will always punish criminals to the same degree approximating the seriousness of its corresponding crime. He says, for example, 'It is not the crimes or punishments which change, but the relation between the two' (PR, §96A).³⁵ This changing relationship is the setting of the values of crimes and punishments (PR, §101). It would be incorrect to believe that Hegel held that the value is set only by the criminal *per se* in committing the crime, as is commonly claimed. In fact, the degree to which a crime poses a threat to the security of society may have a primary impact on the severity of the punishment (PR, §218).³⁶ Hegel says:

The fact that an injury to *one* member of society is an injury to *all* the others does not alter the nature of crime in terms of its concept, but in terms of its outward existence . . . its *danger to civil society* is a determination of its magnitude . . . This quality or magnitude varies, however, according to the *condition* of civil society. (PR, §218R)

Crucially, there are two different treatments of punishment that must be distinguished between an abstract, conceptual comprehension of crime and the magnitude of the actual punishment. On the one hand, in a certain respect, the 'wrongness' of a particular criminal act is equal to other similar acts. However, on the other hand, *actual* punishments are distributed to violators of positive law, not abstract right. If this were not true, it would always be unjust to punish criminals differently for the same crime. On the contrary, Hegel argues that a society's penal code is 'primarily a product of its time and of the current condition of civil society' (PR, §218R). Civil society determines the severity of punishments because crimes attempt to negate 'the validity of the laws': in some sense, punishments must seek to restore the validity of a society's laws, rather than abstract right *per se*.

Thus, legal punishment aspires primarily to satisfy societal maintenance.³⁷ Punishment aims to both maintain and protect the continuation of the community against criminal actions that seek to undermine or forever damage the community as a community of *right*. This is not to say that Hegel's views on punishment are designed to punish all who challenge the state. There are clear limits on who can be punished – for example, only those who have broken a law – and clear limits on acceptable punishments. Remember that Hegel is not presenting a picture of any *existing* government, whether it be the United States, the United Kingdom, or the United Arab

Emirates. Instead, this picture is of the Idea of the state: a just community that serves as our benchmark for a more perfect state.

Importantly, abstract right does reappear in this discussion. Recall that, for Hegel, speculative logic's self-development from an abstract to a more concrete and true conception of reality entails that each conceptual advance contains all those preceding it. Likewise, Hegel's account of punishment here in civil society 'contains' the account of punishment in abstract right. He says:

Just as right *in itself* becomes law in civil society, so too does my individual [*einzelne*] right, whose existence [*Dasein*] was previously *immediate* and *abstract*, acquire a new significance when its existence is recognised as part of the existent [*existierenden*] universal will and knowledge. (PR, §217)³⁸

In abstract right, wrongful acts must be punished or the crime 'would otherwise be regarded as valid' (PR, §99). Similarly, Hegel says: 'it would be impossible for society to leave a crime unpunished – since the crime would then be posited as right' (PR, §218R). Crucial to Hegel's theory of punishment is that punishments can be distributed only to deserving persons. Thus, actual punishments seek to address the existence of wrong as positive laws.

In addition, the general 'equality' between the conceptual comprehension of crime and the magnitude of the actual punishment remains as a measure of a criminal's essential desert, but it may not always play a role in 'the specific external shape' punishment takes (PR, §101R).³⁹ As a result, Hegel clearly recasts the retributivist core in his original treatment in abstract right where he endorses the view that (1) crime exists as the violation of abstract right, (2) only someone who performs a crime can be guilty, (3) only guilty persons are liable to punishment, and (4) all punishments must be proportional in value to their precipitating crimes. His later treatment qualifies these steps so that crime becomes a violation of positive law, rather than, strictly speaking, abstract right. More importantly, he does not abandon his earlier view that the values of crime and its punishment are linked. The difference is that Hegel now adds an important twist: *civil society* – rather than only the criminal himself in acting – has a say in which punishment is most appropriate. Thus, Hegel's full theory of punishment is not individualistic, in a break from traditional retributivism.⁴⁰

I believe there are further reasons that might cast doubt on Hegel's alleged retributivism. For example, not only does civil society decide the value of punishment, but the punishments it validates, when all things are considered, may not cohere with what a criminal may deserve. Thus, for

instance, Hegel points out that, 'in civil society offences can be punished more severely than they can be in the abstract, in and for themselves' (*LNR*, §114; see *PR*, §218A). This fact may be particularly troubling given Hegel's views on war, as civil society may often find itself sentencing its criminals to more severe punishments than might have been the case in peace time, all else being equal (see *PR*, §§218A, 324–9). For Hegel, there is no such thing as a punishment unjust in and for itself, as all 'are proportionate to the conditions of their time; a criminal code cannot be valid for every age, and crimes are semblances of existence which can meet with greater or lesser degrees of repudiation' (*PR*, §218A). None of these views cohere with retributivism which would claim instead that punishment cannot be just if it fails to cohere with a criminal's individual desert and, more importantly, the only justifiable punishment is one that is just in and for itself.

Dudley Knowles and Mark Tunick argue that Hegel's theory of punishment, in part, demonstrates the proper limits of all retributivist theories. This 'modified retributivism' determines the value of a crime in a retributivist fashion.⁴¹ If more than one form of punishment are consistent with this value, then we are perfectly entitled to appeal to non-retributivist considerations 'without sacrificing the retributivist ideal'.⁴² This view implies that after we use retributive standards to determine the appropriate severity of punishment, then any punishment within a given range that we choose will always be retributivist. The problem with this view is not only the fact that retributivists might reject both a non-individualistic conception of desert and the legitimate imposition of a punishment that is not just in and for itself. In addition, the actual punishments this modified retributivism endorses may well have non-retributivist functions. For this reason, it is rather misleading at best to call this position a variety of retribution.

Nevertheless, I do not want to give the impression that Hegel would endorse whatever punishment we chose for a criminal. Indeed, Hegel believes that: 'The highest point in the development of a people is just this . . . to have reduced its laws, its ideas of justice and morality to a science' (*PH*, p. 76). With punishment, we must make qualitative and quantitative distinctions among crimes that are reflected in our penal practices. Qualitative distinctions are between different categories of crime, such that '[t]he distinction between robbery and theft is a qualitative one' (*PR*, §96R). Hegel then distinguishes between qualitative and quantitative in the following way: 'murder is qualitatively distinct from theft, and theft, according to its scale, quantitatively distinct from greater or lesser theft' (*LNR*, §45). The state must strive to make these legal distinctions and Hegel criticises Draconian laws, among others, for their failure to do this (see *PR*,

§96R).⁴³ Yet, the state must also recognise that certain crimes, such as theft, are less serious than murder.⁴⁴ Furthermore, it must distinguish between different varieties of any given offence by setting minimum and maximum limits of what the punishment might justifiably be, such that not all thefts are viewed as equal crimes nor punished equally (see PR, §214R).⁴⁵ Thus, the differences between separate crimes and the varying gravity of each type of crime must be reflected in any rationally justified system of punishment.

The specific determination of punishments is by professional judges presiding over jury trials (PR, §§214R, 227A, 228R).⁴⁶ These decisions are to take account of the effect on society of a crime and ‘not solely the law’ (LNR, §45). We might expect repeat offenders to receive punishments that do not take into account past offences, as the criminal would have annulled these crimes through his punishment. In fact, Hegel argues that repeat offenders might deserve more severe punishments than someone committing the same offence for the first time, in an effort to prevent the performance of crimes from becoming a habit (LNR, §114). This may make some sense if we consider one role of punishment is to reconcile the criminal with the community. By committing the same offence repeatedly, the criminal displays her resistance to reintegration with society and the need for a more severe than usual punishment to bring this about.⁴⁷

This is not to say that desert as retributive guilt lacks an important place in Hegel’s theory of punishment. As we have seen, Hegel believes that guilt is essential to punishing. However, he leaves it an open question how retributive a civil society’s punishments may be beyond this minimally retributivist conception. In his *Science of Logic*, Hegel says:

Punishment, for example, has various determinations: it is retributive, a deterrent example as well, a threat used by the law as a deterrent, and also it brings the criminal to his senses and reforms him. Each of these different determinations has been considered the *ground of punishment*, because each is an essential determination, and therefore the others, as distinct from it, are determined as merely contingent relatively to it. *But the one which is taken as ground is still not the whole punishment itself.* (SL, p. 465 (emphasis added))⁴⁸

In this passage, Hegel is distinguishing between the various grounds of punishment and the essential, or ‘true’, ground of punishment. That is, Hegel does not deny that punishment can have a deterrent function. What is crucial is that punishment’s ground is retributive: all punishments must be deserved by a criminal and in proportion to the gravity of their crime. However, punishment can satisfy this ground in a variety of ways. Rather

than commit himself to a purely retributivist theory, Hegel does not seem to endorse retributivism beyond the necessity of guilt prior to punishing. By claiming that punishment's retributivist ground is 'not the whole punishment itself', it is difficult to see how Hegel's theory of punishment could be taken to be anything more than minimally retributivist or perhaps even less.

Finally, Hegel's defence of a theory of punishment that may fulfill different functions makes best sense of the *Philosophy of Right*. We punish criminals in proportion to the gravity of their illegal acts. Their gravity is determined not solely in relation to their culpability as such, but in relation to the 'danger to civil society' that their actions pose (PR, §218R). Hegel's claim is that we should punish crimes more severely in proportion to the threat they pose to the continuation of the state. In times of peace and prosperity, the state will be less threatened by the existence of crimes on account of their more limited ability to threaten the continuation of the state. Crimes pose greater threats in times of civil disturbance or war than in times of peace. Therefore, crimes reflect 'the current condition of civil society' and exist as 'a product of its time' (PR, §218R).

The overarching aim of punishment is societal maintenance of the state. If this is the true end of punishment, then it is clear that punishment should take the shape that Hegel defends. If we have two available and legitimate punishments equal in value in all relevant respects, aside from the fact that one of the punishments has a greater potential to rehabilitate the criminal, then a Hegelian theory of punishment will justify the punishment with the greater rehabilitative effect as such a punishment will further the aims of societal maintenance. We do not maintain the state for its own sake, but as a demand of justice punishing only those who have committed crimes within a proportional framework. Hegel's theory of punishment accommodates more functions than simply retributivism. These functions are justified within a certain structure where deterrent and rehabilitative functions are secondary to the necessity of desert and proportionality. Punishment is, strictly speaking, neither retributivist, preventative nor rehabilitative, but a *unification* of these three distinct functions within a rational framework.

V CONCLUSION

The common interpretation of Hegel's theory of punishment is that it is a retributivist theory of annulment, where punishments cancel the performance of crimes. A representative statement is offered by Allen Wood. He says: 'This theory of punishment is well grounded in Hegel's theory of abstract right, and it succeeds, without appealing in any way to

consequentialist considerations'.⁴⁹ This view suffers from limiting its analysis to Hegel's discussion of punishment in the section 'abstract right' in his *Philosophy of Right*. On my reading, Hegel's theory is only minimally retributive as he recognises the centrality of guilt, although the severity of punishments is linked more closely with the threat to the security of civil society rather than any conceptual 'wrong' manifest in the criminal action. Thus, in his later treatment of punishment, Hegel ultimately provides a social justification for his theory of punishment beyond his conceptual argument. Finally, Hegel rejects our ability to 'annul' every crime in practice, recommending more severe penalties for repeat offenders than first time offenders.

Not only is this interpretation closer to the text than rival appraisals of Hegel's theory of punishment, but the way in which the two treatments of punishment fit together can make sense only if we take seriously the relationship between the *Philosophy of Right* and Hegel's larger system. A systematic reading allows us to make best sense of the terms and the structure of Hegel's argument (principally, how its different sections relate to one another in the construction of his argument), shedding new light on conventional interpretations and presenting us with a very different, but a more textually accurate, rendering of Hegel's *Philosophy of Right*.

CHAPTER 4

Morality

I INTRODUCTION

Hegel's views on morality have attracted much controversy, particularly with regards to his criticisms of Kant's moral theory. Famously, Hegel accused Kantian morality of being overly formalistic and lacking in content. Kant's defenders have argued that Hegel's criticisms fall wide of the mark, while Hegel's admirers, such as F. H. Bradley, claim his criticisms 'annihilated' Kant's theory.¹ Both sides offer a compelling picture and the debate between the two is seemingly intractable, with neither side willing to concede much ground.

This chapter offers a new position on this old debate. I agree with Kant's defenders that Hegel's criticisms are at best uncharitable. Hegel redefines 'morality' and then he uses this new redefinition as a vantage point to criticise the views of others. We should hardly be surprised to find that other moral theories are found wanting by his account. Nevertheless, Kant's project centres on the derivation of universal moral principles which we should all honour. Hegel's primary criticism is that his understanding of what constitutes such principles cannot perform the work that Kant wants them to achieve. We might then be misled into thinking that Hegel's complete view is that the Kantian project is a complete failure, although this would be a mistake. There is a space in Hegel's theory of the state for universal principles, namely, within the relationship between religion and the state. We can best situate Kant's moral theory in relation with Hegel's larger philosophical vision, despite Hegel's criticisms of Kant's theory.

The chapter will begin with an analysis of Hegel's peculiar understanding of morality and what it can achieve. The following section will examine his uncharitable characterisation of Kant's moral theory and why Hegel finds it unsatisfying. This discussion is followed by a revealing look at section 270 and its long remark in the *Philosophy of Right* where Hegel discusses the relationship between religion and the state. The final section makes clear

that Kant's general project as commonly understood can be accommodated in this part of Hegel's views.

II A PECULIAR POINT OF VIEW

Hegel does not present us with a commonsensical view of morality. For example, if we were asked by someone to provide a view of morality, perhaps no more than a few of us would confess that our understanding of morality is separate and logically prior to a consideration of how morality is related to the world. That is, when we think about morality in our armchair or on a judge's bench, we do not think about morality as a purely intellectual exercise, but something involving real people in actual relation to each other.

This is not Hegel's understanding of morality. To begin, it is essential we recall Hegel's primary project which is to comprehend 'the free will which wills the free will' (PR, §27). Hegel's problem is that the free will may act arbitrarily. His project is to understand how the free will can become truly free. The project begins in 'abstract right' (see Chapter 2). Hegel argues that something important arises when we take possession of an object and our possession is recognised by another. That is, we form a common will with another person (see PR, §70R). This is a positive development in our understanding of will. When we find mutual recognition with others, we begin to overcome our pure subjectivity (see PR, §§41A, 71R). Through mutual recognition objectivity becomes a possibility.

If there is a worry with this story, then it is that any common will formed between two people in this way will consist of no more than an *external* relationship. The common will between two persons is external insofar as it arises with regard to an external object, namely, property. Whether or not we decide to create a common will appears to be no more than contingent (see PR, §82). The contingency of our mutual recognition expresses the *fragility* of our freedom at this stage. Our decision to forge a common will appears simply as an arbitrary agreement (see PR, §113R). The development of our understanding of our freedom is improved by finding out how we might eliminate any arbitrariness and contingency in our common will.

This development takes place when we move from a common will that is external to a commonality that is *internal* (see ES, §503; PR, §104A). Morality is this internal movement, or reflection 'into itself' (see ES, §§408A, 503). In morality, we eliminate arbitrariness in our common will by clarifying the role of our intentions and purposes when forming agreements with one another (see PR, §114). Hegel calls this perspective 'the moral point of view' (PR, §105). The moral point of view is not unlike

our perspective in abstract right insofar as neither posit us in our full reality, but each a developmental step in our progressive self-consciousness of freedom.

The moral point of view is a particular point of view. That is, morality is conceived as subjective freedom.² Our internal consideration of how we can further develop the free will is an individual consideration as we focus on 'subjectivity and particularity' (see *PR*, §213). We discover that we can discern greater rationality in our choices and that we become accountable for what we are responsible for: accountability and responsibility then go hand-in-hand (see *PR*, §117). This is an improvement on our previous understanding of freedom in abstract right. In abstract right, the existence of a common will between two people in mutual recognition appears to arise contingently. We now comprehend that we are purposeful and responsible. When we enter into agreement with others, our agreement is not contingent, but a product of our wilful activity and an expression of our intentions.

The problem with the moral point of view is that it is incomplete. For example, Beiser says that, 'The subjective will involves the individual's power of choice, his interest and needs; the objective will expresses the norms of reason, which are realised in the laws, customs, and morality of social life'.³ Hegel's consideration of morality is limited to an analysis of the individual's power of choice. Of course, we may well be mistaken on what we choose (see *PR*, §140R). When we consider our subjective will, we consider ourselves in isolation from society. We may *intend* good, but our only guide is our individual conception of the good (see *PR*, §140A).

Therefore, for Hegel, morality is in danger as an 'abstract universality . . . without content' (*PR*, §135). We overcome this worry by moving from the moral point of view and subjective standpoint towards 'ethical actuality' within a more objective standpoint (see *PR*, §153). A more objective standpoint is to consider ourselves in our full reality as members of a community. In other words, we seek not only to understand how the free will wills the free will, but how the free will can will freedom for *citizens* both engaged in market-place activities and members of a family.⁴ Any view of morality is incomplete on this picture because morality cannot be satisfied with itself: it must move beyond itself to consider ourselves in our full reality.

This full reality is called '*Sittlichkeit*' (see *ES*, p. 253; *LNR*, §69; *PR*, §§142–3, 151, 156). Commentators have translated this German word in a variety of ways, including 'customary morality',⁵ 'moral community',⁶ and 'social ethics'.⁷ In his translation of the *Philosophy of Spirit*, William Wallace translates *Sittlichkeit* twice ('The Moral Life, or Social Ethics'), clearly confused on which term best captures its meaning (see *ES*, p. 253). I will use the now standard translation of *Sittlichkeit* as 'Ethical Life', although the variety of translations

point out something crucial. *Sittlichkeit* is more than simply a higher plane beyond morality, but morality understood *in context*. It is not simply morality, but morality embodied in actual customs; it is not simply a moral view of an individual, but the view of a moral community; and, finally, it is not simply a perspective on ethics, but ethics as a way of life. In ethical life, freedom is no longer ‘abstract’, but made ‘concrete’ and actual (see *PR*, §4).

Ethics is no longer something we do in our armchair considering ourselves in abstraction from our community. Instead, we consider our relationship with others. This is captured well by Bradley, who says:

To know what a man is . . . you must not take him in isolation. He is one of a people, he was born in a family, he lives in a certain society, in a certain state. What he has to do depends on what his place is, what his function is, and that all comes from his station in the organism.⁸

The most complete consideration of our freedom rests on a view of ourselves in a community with others. A more basic view of freedom takes each of us individually in abstraction from our community. This more basic view of freedom is Hegel’s moral point of view. Morality is an important first step before moving forward to the point of view of ourselves as part of a complex system of ethical life. However, morality cannot provide us with concrete principles for action in ethical life because morality does not consider ourselves in relation to others in community by definition.

III KANTIAN MORALITY

If Hegel’s conception of morality is that it conceives us in abstraction from our community, then we will be unsurprised to find he is highly critical of others with a different understanding of morality. In this section, I want to consider Hegel’s criticisms of Kant’s moral theory.⁹ Hegel’s views on Kant’s theory has attracted much attention over the years.¹⁰ Most of the attention has focused on Hegel’s so-called ‘emptiness charge’: Kantian morality offers no more than an empty formula of duty ‘duty for duty’s sake’ where our task is to avoid contradicting our formula (see *PR*, §§135R, A).¹¹

Kant’s moral theory is the focus of Hegel’s criticisms of moral theories more generally.¹² Hegel’s criticisms centre on Kant’s Formula of Universal Law which states that we should ‘act only in accordance with that maxim through which you can use at the same time will that it become a universal law’ (G, 4:421; see *CII*, 5:30). Hegel’s view of Kant’s moral theory is that it sets the satisfaction of a formula as its sole basis for determining the goodness of our actions. This formula is inadequate because it does not

consider the person in her social context, a problem faced by all moral theories. The problem is compounded by Kant's insistence that we use this formula to derive a view of social ethics from moral theory where we perform duty for its own sake.¹³ For Hegel, 'this is abstraction only . . . Kant has contributed nothing but the form of identity' (*LHP*, III, p. 460).¹⁴

Kant offers Hegel much ammunition. For example, Kant provides any number of statements that support a reading that we can derive a satisfactory moral theory by simply avoiding contradictions. Kant says: 'All I need for morality is that freedom does not contradict itself and hence can at least be thought; I do not need to have any further insight into it' (*CI*, B xxix). Elsewhere, Kant argues that we assess the worth of actions dependent on how closely they conform with his views on morality (see *G*, 4:399–400; *MM*, 6:224).

It has often been pointed out by Kant's defenders that there is far more to his moral theory than simply satisfying this formula. In fact, Kant offers several different versions of this formula to help draw our considerations of morality away from a purely rationalist exercise and 'nearer to feeling'.¹⁵ Thus, Kant not only specifies a universality condition – that is, that moral principles must apply universally – but also what John Rawls has called 'the content condition' of Kant's moral theory. This states the specifying requirements we require in order to know whether our maxims can be universalised and serve as a moral principle that all should accept.¹⁶ Whatever else we might say, it is clearly the case that Kant does not provide us with any unambiguously clear 'guidelines for how general or specific this information should or may be'.¹⁷

This lack of clarity presents us with a real problem in spelling out the content condition for Kant's moral theory. We can find passages moving in both directions. On the one hand, Kant does claim that our inclinations and desires are not entirely excluded when considering what morality requires (see *CI*, A15/B29; *CII*, 5:30, 34; *G*, 4:442). In fact, we need to be aware of our 'anthropology' in order to properly determine the application of moral principles (see *CI*, A533–4, 558/B561–2, 586; *G*, 4:412). These passages suggest that we do not simply apply a formula for generating moral principles and accept those that do no more than satisfy the condition of universality. Instead, principles are applied in a relevant context that must be part of our consideration of these principles.

On the other hand, it is also the case that Kant offers us passages that appear to deny just this. Thus, elsewhere he endorses morality as 'independent of sensibility' and 'of a supersensible nature' (*G*, 4:457; *CII*, 5:43; see *G*, 4:390; *CII* 5:47, 124).¹⁸ Furthermore, he says:

Ethical duties must not be determined in accordance with the capacity to fulfill the law that is ascribed to human beings; on the contrary, their moral capacity must be estimated by the law, which commands categorically . . . not in accordance with the empirical knowledge we have of them as they are. (MM, 6:404–5; see G, 4:389, 4:410–11, 432)

It is not my intention to suggest that Kant's moral theory suffers from any contradiction. On the contrary, my aim is to do no more than note a clear ambiguity in Kant's work on how he believes we should satisfy the content condition.

Hegel's main concern is clearly with the satisfaction of Kant's content condition. No moral theory can offer a satisfactory account because all moral theories consider individuals in their abstraction from a community. A satisfactory account will have a fleshed out conception of ourselves in a community, although we would no longer have morality, but ethical life.¹⁹ Following Bradley, we might say:

What is it then that I am to realize? We have said it in 'my station and its duties'. To know what a man is (as we have seen) you must not take him in isolation. He is one of a people, he was born in a family, he lives in a certain society, in a certain state. What he has to do depends on what his place is, what his function is, and that all comes from his station in the organism.²⁰

Thus, it is not simply a question of doing what is morally required; but, rather what is *ethically* required. We do what is ethically required when we consider ourselves in our truth, as members of a community, a family, etc. Morality is limited to our abstraction from community. As such, it would be a mistake to employ a view of morality as a standard for assessing the ethical development of our community. Yet, this is precisely what Kant is doing in Hegel's eyes when Kant argues a state is 'barbarous and undeveloped' when it fails to satisfy the standards of his moral philosophy (MM, 6:337).

We can see that Hegel has a unique understanding of what morality is and what moral theory can achieve. Our moral considerations view ourselves in isolation from our actuality as members of a community. Moral theories are unsatisfactory as a standard of ourselves in our actual lives: we cannot alone determine what is ethical in abstraction from our engagement with the community.²¹ Instead, we should turn to ethical views, such as Hegel's understanding of 'ethical life'. Only in ethical life do we consider ourselves in our full reality. Kant's mistake centres on his failure to recognise the limits of moral theory. We should reject his view primarily because it fails to account

for our existence as members of a family, civil society, and the state. In other words, Kant's moral theory fails by the lights of Hegel's understanding of all moral theories as limited and without content.

IV RELIGION AND THE STATE

We have seen that Hegel develops a unique view of morality and its limits, which he then uses to criticise Kant's moral theory. I have not argued that Hegel's moral theory is defensible nor have I argued that his criticisms of Kant's views hit the mark. This is not because I accept either position. Certainly, much ink has been spilled pouring over the question of whether Hegel's criticisms of Kantian morality are damaging.

I am interested in a different issue in this chapter and I seek to break new ground on this old debate. I have argued that even the most charitable interpreter of Hegel must note that he uses a unique understanding of morality with its shortcomings and then claims other moral theories possess such problems on account of their being moral theories. If we grant this criticism of Hegel's views, then this is not to discount entirely his emptiness charge against Kant's moral theory. Kant does his theory few favours in offering an ambiguous picture of how we might respond. I am happy to concede for the moment that Kant's many defenders can address Hegel's worries, but I want to consider a new position they might accept.

The debate over whether Kant's moral theory is empty rages over passages in Hegel's consideration of morality both in his *Philosophy of Right* and earlier texts. Few have argued that Kant's moral theory is not best situated under what Hegel understands as 'morality'. That is, Kant's defenders argue that his moral theory is more than a dry formula and takes our lived situation in the world into account. By contrast, Hegel's defenders argue that he presents a more robust and realistic account of ethical life. What neither side has seen is that Kant's moral theory may be situated within Hegel's ethical life in a more satisfactory way to both sides in the debate. Hegel has great respect for Kant's views. For example, Hegel tells us that 'the Kantian philosophy . . . constitutes the base and the starting-point of recent German philosophy . . . its merit remains unaffected by whatever faults may be found in it' (SL, p. 61n). We have seen that Hegel finds many faults with Kant's moral theory. I will not argue how its merits live on elsewhere in Hegel's theory of the state.

Kant's moral philosophy offers us more than a procedure by which we can determine acceptable principles, it also presents us with a picture of what is 'holy' (see CII, 5:86–7). This view of morality not only serves as the best standard of right and wrong, but it leads us to religion (see R, 6:6). This

is because after we understand that *reason* justifies a certain picture of morality, we ultimately discover that this same picture is justified as well by *God* (see MM, 6:443). Kant's understanding of religion is not what we might expect. Religion is not conceived as a matter of faith alone, but fully compatible with rationality.²² In fact, he calls religious belief 'a plain rational faith' (R, 6:103). Using language not unlike Hegel, Kant tells us that people live in 'an ethical community' when they are united by morality (R, 6:94; see 6:98–9).

Kant's defenders should all accept the presentation of his views given above. Kant's moral philosophy is not conceived in abstraction of the world, but within it. In fact, Kant claims that his views on morality are commensurable with religion and, thus, satisfying a higher sphere. That is, Kantian morality is not merely practical in its application for individuals living in community, but consistent with the highest demands of rationality in satisfying divine standards. The universal principles that Kant's moral theory offers us can be conceived as divine principles that help govern the activities of our community.

We saw above that one of Hegel's objections to moral theories is that they make the mistake of taking themselves as the standard of right and wrong for a community. This is a mistake because moral theories cannot satisfactorily perform this task. Moral theories fail because they do not consider the individual as part of a community. Instead, we need a theory that can account for individuals as members of a larger community, a theory of ethical life. Only an ethical, not moral, theory is adequate for an ethical community.

In the picture presented, Kant is arguing that his view of morality applies to an ethical community because its truth transcends the community and it is grounded in religion. Kant's views on morality might have a place in Hegel's theory of ethical life if Hegel left a space in this theory for universal principles which derived their content from religion. If he did, then the answer to whether or not his criticisms of Kantian morality hold takes a new turn. A charitable interpretation of Kant's moral theory does not accept it fails as a moral theory because Hegel redefines moral theories as inadequate. Instead, we consider Kant's moral theory as an *ethical* theory in the Hegelian sense when contrasting it with Hegel's project. As an ethical theory, Kant's views are compatible with Hegel's views. The question then becomes how this is compatible. The answer lies in the place Hegel reserves for universal ethical principles.

Few commentators have considered the argument that Kant's moral theory is not completely rejected by Hegel's *Philosophy of Right*, but re-incorporated in Hegel's discussion of religion and the state (see PR, §270R).²³ It is clear that, for Hegel, the movement from 'morality [*Moralität*]' to

'ethical life [*Sittlichkeit*]' is also a movement to a more actual reality. Ethical life is not the highest sphere of reality in Hegel's system and he considers several others. One of these higher spheres is religion. Thus, religion is more 'actual', or 'true', than ethical life.²⁴ In fact, Hegel argues that religion and ethical life mutually reinforce one another (see *ES*, §552). For example, Hegel says:

true religion sanctions obedience to the law and the legal arrangements of the state – an obedience which is itself the true freedom, because the state is a self-possessed, self-realizing reason – in short, *moral life in the state*. Thus, and thus only, can law and morality exist. (*ES*, §552 (emphasis added))

The religious point of view shares much in common with ethical life. Both are rational developments of freedom that are mutually compatible: when I act in accordance with religious precepts, I satisfy the highest demands of ethical life. Thus, there is no opposition between religion and the state.²⁵

Crucially, the religious point of view furnishes individuals with ethical principles (see *PR*, §§270, *R*). These principles are universal and we can comprehend them individually (see *PR*, §270A). Our understanding of these principles is not a 'matter for conscience': such would be the activity of the moral, not religious, point of view (see *PR*, §270R). The primary difference between these views is that the moral point of view considers ourselves in abstraction and the religious point of view situates us within our more complete reality. However, not only does the religious point of view consider us within ethical life, but it does so through universal principles given to us from reason. Kant's self-understanding of his moral philosophy is very similar. Both offer us universal principles that claim to consider us in our full reality. Moreover, both also claim that they embody higher rational truths beyond the state derived from religion.

This perspective highlights a new strategy for Kant's defenders. Their response to Hegel's criticisms might take the following form. If we take a charitable reading of Kant's moral theory (even if not Kant's own view), then we accept it is a theory that attempts to offer us universal principles that take into account our lived context. As such, it is inappropriate to criticise it as a *moral* theory because it is a variant of *ethical* theory if we were to understand it in Hegel's own terms. Finally, Kant's theory offers us more than an understanding of ethics, but an understanding consistent with the higher demands of religion. When all things are considered an ethical theory of universal principles derived from religion in this form is not objectionable to Hegel. Hegel's mistake was to criticise Kant's theory as a moral theory according to Hegel's understanding of morality. Instead,

Hegel should have argued that Kant's theory may be consistent with the role of religion and the state. This would not then entail that Hegel accept Kant's views in full, but, rather, only in part. More importantly, this reinterpretation reopens the debate between the two views as rivals from a new perspective, more accommodating to their individual self-understandings of their projects.²⁶

V CONCLUSION

A longstanding debate concerns Hegel's critique of Kant's moral theory and this chapter offers two new contributions to this. The first contribution is to argue that Hegel's criticism fails for a new reason. Kant's moral theory fails, for Hegel, simply by virtue of the fact that it is a moral theory. In this first sense, Hegel's criticism rests in his rejection of all moral theories to provide an adequate standard of conduct. If morality is redefined as a sphere where we consider individuals in abstraction from their communities, then all moral theories will be jettisoned on those grounds. Thus, Hegel's emptiness charge is not only a criticism of *Kant's* moral theory, but of *all moral theories*.

I have suggested that Kant did not conceive his moral theory in these terms. A more charitable view is that Kant's moral theory is (in Hegel's terminology) an *ethical* theory. That is, Kant's theory does not simply consider the individual in abstraction from all others, but as part of a community. This leads directly into this chapter's second contribution. If Kant is not engaged in 'moral' theory as Hegel conceives it, where is the best place in Hegel's system to consider Kant's views? I have argued that Hegel's discussion of religion and the state is this place. The picture Kant provides has strong parallels with the role of religion in Hegel's state. I would not accept that Kant's moral theory is the same as Hegel's views on ethical principles, only that this is where Hegel should have considered the relationship between his own and Kant's views. For Hegel, his philosophical system does not conclude with the state, but marches on toward a consideration of religion. Much more work needs to be done on Hegel's religious views and their relation to the state. This chapter seeks only to point out where there this work might begin.

This reinterpretation of the debate between Hegel and Kant on morality has tried to make a contribution without taking sides, even if I am more sympathetic to Kant's defenders on the emptiness charge. I hope that my reading of where Hegel's and Kant's theories relate moves the discussion into different avenues. This old debate may have new life after all, but only if we take seriously the relationship of the *Philosophy of Right* within Hegel's system and the more privileged standing of religion in this system.

CHAPTER 5

Family

I INTRODUCTION

Perhaps one of the areas of Hegel's political philosophy that has received the least attention is his theory of the family.¹ This lack of attention is certainly not the result of agreement with his readers. In fact, Hegel's views have attracted much criticism.² This criticism concerns Hegel's defence of the traditional family: a husband and wife raising children in a monogamous relationship where only the husband engages in activities outside the home, such as employment or full political participation. Such views have brought the ire of feminists, in particular, leading one feminist critic to argue that we should all 'spit on Hegel'(!).³ Others are equally dismissive, but on different grounds. For example, Peter Steinberger argues that the 'Hegelian account [of] marriage seems to speak to a simpler time, a time long past'.⁴ Thus, it is not so much that Hegel is wrong by our standards, but that he is simply defending the prejudiced view of the family of his day.

In this chapter, I will adopt the following approach to interpreting Hegel's views:

When we judge the arguments of the *Philosophy of Right* we are not speaking of Hegel, the person, as a judge we should avoid on an Equal Rights Tribunal. We are in the business of attending carefully to his arguments.⁵

I share the view with most, if not all, contemporary philosophers that the ideal family is *not* a heterosexual, monogamous married couple with children where the wife's roles are limited to homemaker and mother; I do not believe there is such a thing as 'an ideal family'. Nonetheless, what I am interested in doing here is merely setting straight Hegel's arguments in favour of the family and the particular form this family takes. I will argue that the substance of Hegel's arguments only make sense if we take seriously

the rationalist dialectical structure that informs the whole of the *Philosophy of Right*. The view of the family we find may be familiar, but my account is able to best make sense of Hegel's arguments and we will be left with a more robust understanding of Hegel's views on the family that improves upon and corrects previous accounts.

II LOVE AND MARRIAGE

For Hegel, the most fundamental identity we possess is our membership in a family. It is easy to see why this is the case. Of course, we have several identities which include, for example, our occupation or our citizenship. These identities will turn out to be most important for Hegel as well. The familial relationship is considered to be more fundamental than our occupation or our citizenship primarily because it provides the initial moment of togetherness and sense of fellow feeling that will underpin the substantial relations of corporate identity in civil society and patriotism in the state.⁶ In addition, the importance of gaining a more complete understanding of our relation to others in a family serves a wider goal of offering a theory of freedom that is sensitive to the particulars of the world we inhabit. This world is characterised by Hegel as 'ethical life [*Sittlichkeit*]' and it is the arena of our concrete freedom (see *PR*, §142). In ethical life, we consider individuals in their actuality.⁷ Thus, Hegel's project is far from utopian, but rooted in the actual contexts of our lives. With the family, we consider individuals in their truth for the first time (see *PR*, §161). In this section, I will discuss the role of love in the foundation of the family and creation of a marriage. I will then offer an explanation of the different gender roles Hegel assigns married persons.

We each have a variety of attachments. The most fundamental attachment is one of the heart, namely, love. The key characteristic of love is its desire for unity with another (see *PR*, §§158, A). For Hegel, it is necessary to ensure that our understanding of love be a conception of how we should relate to one another as human beings. Human beings desire one another in a drive to create a partnership. What we must comprehend is how this drive should become manifest.

We should not relate to one another in the same manner that animals relate to one another. For one thing, we alone possess reason and our possession of reason should play a central role in sketching out a distinctly human understanding of proper relations (see *EL*, §20A). In lacking reason, animals are unable to control their desires (see *PR*, §11A). They have sexual relations with one another purely out of the need to satisfy their desires and nothing more substantial (*TAC*, p. 192). Human beings share desires, such

as sexual satisfaction. However, we must constrain our desires within certain rational limits. If we fail to do this, then our behaviour remains 'at the level of beasts' (LNR, §90R).⁸

An important implication of this situation is that we ought not to form relationships purely out of the need to satisfy a certain feeling. If we were constrained by no more than the immediate satisfaction of our feelings,⁹ then our actions would lack rational control of our desires. We would be acting arbitrarily and not freely because we lack control over our actions: our desires alone dictate how we interact with others (see PR, §15A). This is not to say that we should rid ourselves of desires – recall that love points toward the most fundamental of attachments we have with others – but that our desires become constrained within a particular rational order (see PR, §19R).

For Hegel, animals engage in what we might call an 'external' relation with each other. For example, when two dogs share an interest in sexual intercourse, the two come together only where it seems fit to satisfy their immediate desire for sex before parting ways forever. Rational human love takes an entirely different shape. Rather than an 'external' relationship, we form 'internal' bonds with one another.¹⁰ In this way, our relationships become 'ethical', rather than 'animal' (LNR, §76R).

An internal relationship is created from a loving unity between two people (see ES, §519; LNR, §79; PR, §168). What characterises this pairing is that people have desire for one another, but do not come together merely for the sake of satisfying this desire. Instead, they engage in forming a shared identity for themselves together.¹¹ As Hegel says, 'everything turns on the fact that *this* man loves precisely *this* woman, and she him' (LA, I, p. 567).¹² Two people take a more substantial relation to each other far beyond the mere satisfaction of their desires. Their shared identity creates 'a *common* point of view' two people share with each other.¹³ This is made possible only through the love each person has for the other person. Love overcomes the differences between them and they are transformed from two separate individuals to one legal person (see LNR, §78R).

The magic in this power of love is that it first sets the stage for all individuals to recognise the importance of fellow feeling. Through creating a loving unity with another person, the individual first loses himself in creating a higher unity with another person. This unity is not forced upon him, but something that he desires. It is not a union built solely for the sake of desire, but the impulse to join together with another person in a shared project. For Hegel, our engagement with others through work and citizenship are additional spheres in which we fulfill a desire to join together in tandem with others in pursuit of higher projects in civil society and the

state. In its initial form, love motivates us to create relationships of fundamental importance for us; in later forms, our fellow feeling motivates our patriotism and other attachments of a more social character.¹⁴

The satisfaction of desire should not dictate our relationships with each other. Instead, our relationships should be built from the mutual love two people share for one another. This shared love is itself a desire for unity. A couple that is motivated by love to form a unity between them begin to enjoy freedom substantively for the first time.¹⁵ If freedom is the absence of arbitrariness, the couple in loving unity overcome the arbitrariness of seeking only the immediate satisfaction of their physical desires for one another in their unity with one another.

For Hegel, the desire for unity with another forms the basis of a commitment with another. This commitment to a common unity is 'marriage'. Such a marriage is permanent, at least 'in principle'.¹⁶ That is, when two people desire to form a true unity with each other based upon love, the unity must aspire to be perpetuated without end. If I were to agree only to be joined with another person for a set period of time or with an eye towards leaving, then it is clear that I do not seek *unity* with another. Instead, I seek only *accommodation*. In other words, I wish only to have my needs accommodated by another person until such a time that I choose to pursue a different life path. When I choose to create a union with another, I then choose to become one with that person. Hegel describes such persons as free through their 'being related to the others' and 'at home with itself' (EL, §158A). In forming a union, I surrender my complete individuality: who I am is, in part, my relation with another person. Indeed, a couple form a new legal person and 'the wife loses her name' as two become one (LNR, §78R). Nor is this thought difficult to comprehend: it has certainly been commonplace to refer to partners as 'one's other half', at least since Plato's *Symposium*.¹⁷

Hegel argues that marriage is something that should be shared between two people only. This is because marriage is a particular bond between persons that is only possible between two persons in love with each other. He rejects out of hand the ability to love two or more persons equally (and have this love duly reciprocated equally) in such a way that all involved create a common, substantive unity. When more than two people attempt to enter into marriage, marriage becomes distorted and unable to become instantiated (see LNR, §80; PR, §§167, R).

When a couple become married, the marriage is not a mere contract (see PR, §§75R, 161A). This view is at odds with Kant's perspective. Kant found himself in a quandary with relationships: if people are forbidden from using one another as a means to an end, then Kant's moral theory

would reject the right of consenting adults to enjoy sexual relationships with each other even if a couple were married (see MM, 6:359).¹⁸ Kant's 'solution' to this quandary was to argue that sexual intercourse could be permitted on the bizarre grounds that each person freely consents in an agreed contract to use each other's genitals as a means to the ends of the other (MM, 6:277–80).

Hegel rejects this picture *tout court*. In contracts, we agree to the use of some thing, thus, the notion of contract is inappropriate with respect to marriage. Marriage is not a relationship where parties agree to use one another (PR, §161A). If this were true, then marriage would fail to live up to a substantive unity of two people together as one person. Marriage partners do not agree to use one another; instead, they agree to live a life together. Hegel notes that 'This is why, within marriage, one may speak unblushingly of natural functions which, in extra-marital relationships, would produce a feeling of shame' (PR, §163A). In Hegel's view, this is because what would exist as the mere satisfaction of desire between unwed couples is the pursuit of greater unity between married couples. Such a pursuit is a just and worthy project, far from shameful.

Marriage aims at a substantive unity between two persons with the desire to form a permanent bond between two people (LNR, §80R). This fact of marriage does not forbid the possibility of divorce. It is true that Hegel believes that being granted a divorce should be 'difficult' (see LNR, §80; PR, §163A). However, divorce is an unfortunate possibility born of the foundation of marriage in love. Love is a feeling and, as such, it is characterised by instability (see PR, §§159A, 162, 163A, 176, A). This does not make love bad, but only not entirely predictable. People fall out of love with one another, just as they fall in love with another: we decide to fall out of love no more than we do when we first fall in love with someone.

Thus, choice is key to marriage, but it is a choice that arises from our desire for another. It is crucial that two people choose to create a unity together based on their love of one another. Peter Steinberger has argued that, for Hegel, 'one does not "fall" in love; rather, one rationally decides to love'.¹⁹ What this characterisation fails to realise is that we cannot 'rationally' choose who we love. Hegel's understanding of love is that love is something we possess for another person that is within both our hearts. We cannot force ourselves to love someone we lack a desire for. However, if we have a special set of emotions for another person, then we ought to realise that the true end of love is to create a real bond with another person. We discern the latter from our use of reason (again, contrasting ourselves to animal relations). However, we must fall in love first.

This brings us to a final point. If a relationship is founded on love, then it

must be a relationship founded on the free consent of both persons (see *PR*, §§162A, 168). When we join in marriage with someone else, this project is a development of our autonomy.²⁰ For this reason, Hegel completely rejects arranged marriages. These relationships do not create a fundamental unity, but simply reduce marriage to ‘a means to other ends’ (see *PR*, §162A). The relationship between two people in an arranged marriage lacks the internal unity that a true marriage requires. This more substantial unity is lacking because love is not the bond that brings this couple together. We can then understand why arranged marriage should be rejected on an additional ground. Our falling in love with another and pursuing a permanent unity with that person in marriage is the most natural and immediate act of moving away from our separate individuality and joining into a common identity with another. This creation of identity with others through some sense of fellow feeling is to develop beyond marriage and the family in the spheres of occupation and citizenship. If we are denied the chance to create familial relationships based upon love, then our ability to pursue common projects with others at work and in the state may be stunted. Arranged marriages foster poor relationships and damage the development of persons beyond the family.

Children play a fundamental role in Hegel’s conception of the family. Hegel says:

The relation of love between man and wife is not yet an objective one; for even if this feeling [*Empfindung*] is their substantial unity, this unity does not yet possess objectivity [*Gegenständlichkeit*]. The parents attain this unity only in their children, in whom they see the whole of their union before them. (*PR*, §173A)

The objective ‘truth’ of a marriage is made possible through the production of children. The creation of children within a marriage generates a new arena, where the love between a couple is increased: each love each other and their child as the embodiment of their love, so too the child loves her parents.

A man and woman having children in a loving relationship fulfills the demands of speculative logic’s syllogism and ‘everything rational’ (see *EL*, §181; *SL*, pp. 664, 837). This syllogistic relation is ‘the *unity* of the extremes, the *middle term* which unites them, and the *ground* which supports them’ (*SL*, p. 665). The form of a syllogism is universal, particular, and individual (see *SL*, pp. 670, 768, 795). The existence of a universal and particular only enters into ‘actuality’ when it is ‘gathered together into an individuality’ (see *SL*, p. 699).²¹ Understood in these terms, marriage is a unity of extremes: it

is a relationship between a man and a woman. Their love for each other is the middle term that unites them into a unity. This unity is necessarily a *particular* unity: a marriage of a particular man with a particular woman. Their love is created out of their shared feelings for one another and to the exclusion of third parties. Marriage, then, satisfies the universal and particular elements of rationality. However, this is not what makes traditional marriage satisfactory for Hegel. What is absolutely critical is that this relationship become actual and, again, 'gathered together into an individuality' (SL, p. 699). A marriage relationship has an internal existence until this love and desire for union is transformed externally into the production of children: children are the external embodiment of matrimonial love (see PR, §173). Children are the product of marriage and the fulfilment of marriage. A marriage is only actualised when the love between a man and woman becomes manifest in the production of children. That is, a marriage is actual because it displays the full characteristics of rationality: universal, particular, and individual (see PR, §§165, 166; SL, p. 666).²²

For Hegel, the traditional family of husband, wife, and children is not justified on the grounds that it is the traditional way many people have chosen to live their lives. On his own terms, he is not trying to justify what is for its own sake. Instead, he views the world through the eyes of speculative logic and attempts to discern the rationality of the world as we find it. It is then no surprise that Hegel would come to justify the traditional family on speculative, not traditional, grounds. Logic is a *creative unity*. It brings together opposites into a unity where their opposition vanishes in the production of a third term, or category. Not least in the absence of advanced medical procedures at this time, Hegel could hardly be less satisfied with the rationality of a social unit where a man and a woman (seemingly opposites) come together in love in order to form one legal person (overcoming their difference) with the aim of embodying their love in the production of children (the proof of this unity).²³

We will be persuaded by Hegel's account only to the degree that we accept his peculiar understanding of rationality and its dialectical structure. However, we must be clear that his account is best understood in terms of this rational structure. This is brought out particularly clearly in Hegel's rejection of incest.²⁴ Recall that marriage is a meeting of extremes (see SL, p. 665). In love, a man and woman create a unity out of difference. Their children give this unity an external reality. Hegel argues further that the man and woman must be 'infinitely unique to themselves' (PR, §168). If a marriage is a unity from difference, then seemingly the greater the difference the more secure the possibility of unity. Such a significant difference is lacking between a man and woman who are genetically related to one

another (see *PR*, §168). Hegel argues that ‘what is already united cannot then be united only by means of marriage’ (*PR*, §168A). Incestuous relationships are wrong because they create a unity from two persons lacking significant differentiation. The lack of such differentiation harms both the vitality of any such union in a spiritual sense (see *PR*, §165) and harms the vitality of any children an incestuous couple produce: ‘the power of procreation, like that of the spirit, increases with the magnitude of oppositions out of which it reconstitutes itself’ (*PR*, §168A). It is clear that the wrongness of incest is not because societies find it taboo or simply by virtue of empirical evidence alone, such as the likelihood of genetic deformities in children. Instead, a marriage is grounded on the unity of difference where the greater the difference, the more superior the unity. Our felt ‘revulsion’ at incest is ‘justified by the concept of the thing’, rather than mere prejudice (*PR*, §168A).

A man and woman join together in marriage to create a loving unity. This unity finds fulfilment in the production of children. When I become a parent, I effectively acquire new duties from my new station in life (see *PR*, §148).²⁵ The primary duties of parents are to raise and educate their children (see *PR*, §174). Childless persons lack any particular duties to children. It is only in becoming a parent that I have a duty to a child, namely, my own child. Nonetheless, Hegel does here claim that children have a corresponding right to an upbringing and he is highly critical of the view that children are no more than their parents’ property (see *PR*, §§3R, 180A).

The upbringing of children is characterised chiefly through their education and discipline (see *PR*, §174A). Children are not born free, although their potentiality for freedom is inborn. That is, children begin life lacking a full knowledge of how they can control the pursuit of their wants and, thus, act freely, rather than be unable to control their desires and have their activities dictated to the satisfaction of these desires. In order to become free, children must become educated to this end (see *PR*, §§10A, 139A).

Parental discipline becomes necessary as a means to facilitate this end. Thus, Hegel argues:

Obedience is the beginning of all wisdom; for the will which as yet does not know which is true and objective . . . such a will is enabled through obedience inwardly to accept the authority of the rational will coming to it . . . and gradually to make this its own. (*ES*, §396A)

Children must be taught to recognise a right way of living, a way that will help to promote their freedom by enabling them to overcome acting on impulse. Hegel tells us that ‘[d]iscipline must begin with obedience, for one

who has not learned to serve cannot rule; the entire capriciousness of children must be sublated' (LNR, §86R). When a child becomes obedient to her parents, the development of her capacity for freedom is best enabled. This obedience cannot be entirely grounded upon a child recognising the rationality of her education for what it is: that is, the child's ability to recognise the truth in her instruction will be limited in proportion to her rational development. Hegel explicitly endorses *deterrent* forms of parental discipline as a result. Readers will recall from our treatment of punishment in Chapter 3 that Hegel rejects deterrence as a complete justificatory ground of punishment: the use of deterrence is thought to amount to treating people like animals (see PR, §99A). In effect, Hegel's defence of deterrent disciplinary measures for children is grounded on the view that children share a similarity with animals. Where the two differ is the child's potential for freedom. In order to help foster this potential we do not treat the child as a full, rational human being as such, but employ means that the child might recognise in her less than fully, rational condition that will help facilitate her rational development.²⁶

The essential structure of Hegel's defence of marriage is now established. We are not animals that are slaves to our passions, but human beings characterised by rationality with the capacity to shape our desires. The most fundamental desire we possess is love for another. Human relationships seek the fulfilment of love in forming a permanent unity with another person, rather than debase love as purely as a means to an end in sexual gratification alone. Instead, we form loving unities purposefully. This unity takes the form of marriage where two separate persons with different identities come to identify in a new way as one couple. The couple's unity is only an internal connection based on their mutual feelings for one another until this connection is given external and objective existence in the production of children. Couples have a need to produce children in order to fulfill their relationship in a concrete way and in becoming parents they have a duty to raise the children they conceive. The traditional union of husband and wife with children is not justified on the ground that it is traditional, but as a substantive embodiment of the form of rationality as universal, particular, and individual. The form of rationality not only justifies this arrangement, but highlights unjustified arrangements, such as incestuous marriages.

III ARE ALTERNATIVES JUSTIFIABLE?

Hegel's views on the family are certainly traditional in a straightforward sense, but by no means entirely indefensible as presented here. Of course,

the traditional family is not without its many defenders. Perhaps its most notable defender is John Haldane, who says:

It matters that children be raised in a family context and that this context be a normal one in which there is the complement of father and mother, supplemented ideally by male and female of prior generations and also by siblings. Uncomfortable as it may now be to confront this fact, a single parent home, or one in which there is only one sex, is in those respects, at least, less favourable than a two (male/female) parent household in which the partners are joined in marriage.²⁷

Note that Haldane's defence of the marriage as presented here rests predominantly on an empirical claim, namely, that children raised within a family composed of a husband and wife enjoy distinct advantages over children raised in alternative forms of family.²⁸ If this is correct (and whatever the said advantages might be), we might still remain unconvinced that the traditional family is best in a more considered sense. That is, children may benefit from being reared within a traditional family, but their benefits arise perhaps only from their having been brought up within a way of life that is shared by most in their community and through no choice of their own. Such persons form a majority and share a view of normality that excludes those in the minority, labelling their lifestyles abnormal. This normal/abnormal divide could easily lead to stigmatisation of those raised in non-traditional families and amplify the possibility of problems any family faces in terms of the separation of partners, education of children, etc. When we look to the world, we may find that a particular way of life more often than not facilitates people who then go on themselves to participate in heterosexual marriage, reproducing the majority's preference. Whether or not this is a better form of life than competing lifestyles is not proven in these respects.

For Hegel, it is not the case that heterosexual marriage is best because it is a practice most people adopt. He does not endorse this relationship on the grounds that it is empirically superior to other forms of relationship. If this is correct, then there is something worthy of recommendation in Hegel's views. It is not traditionalist in merely justifying life as it has happened. However, Hegel's alternative justification might even be worse. That is, the traditional family is justified not on its being traditional, but on its satisfaction of Hegel's rational structure that informs his *Philosophy of Right*.

Our present day is marked by pluralism in many areas of human endeavours. This pluralism extends to familial attachments. Unsurprisingly, many interpreters who are interested in Hegel's larger philosophical project have taken a close look at Hegel's theory of the family with the

purpose of understanding how this theory might accommodate alternative family arrangements other than the traditional union of husband and wife with children. I will explore this matter in this section before turning to Hegel's views on gender roles in the family. There are two forms of non-traditional families I want to consider here. The first is unmarried couples and the second is homosexual relationships. I will discuss each in turn.

The first form of modern family life I want to consider is the unmarried couple. Is Hegel arguing that unmarried couples are doing something wrong? Absolutely not. Instead, his argument is that their union can become improved. For example, Dudley Knowles argues:

Unmarried lovers are not more free than their wedded counterparts; they are less free because all they have to sustain them are the contingencies of passion. They are vulnerable to a force which is both powerful and transient.²⁹

In other words, an unmarried couple is not a complete union because they are together only to satisfy their desires. They accommodate each other in this form of relationship, rather than seek unity with one another. If they sought unity, then they would identify as one entity together rather than as two separate persons. Marriage, for Hegel, is itself grounded in the desire for unity out of mutual love. What seeks unity does not wish separation and all marriages aspire to permanence. This is the root of Hegelian marriage.

Those who do not marry are not themselves 'bad'. Instead, they deny themselves the satisfaction of a special bond that many people enjoy.³⁰ This bond is valuable because the desire for unity in pursuit of common goods characterises other forms of human endeavours in a less fundamental way, such as kinship amongst fellow members of a trade and patriotism amongst fellow citizens. Familial love is the most fundamental unity that has an educative value in preparing ourselves for full participation in other forms of life. When we elect out of marriage, we shortchange our potential for full development in civil society and the state.

A second form of familial life is homosexual relationships. Some commentators have argued against the obvious. The obvious is that Hegel defends a traditional family. What these commentators have tried to demonstrate is that Hegel's defence of the traditional family is not exclusive to the traditional family. This argument is made succinctly by Knowles:

The prime purpose of marriage is the objective establishment of the loving union of committed partners, which is justified as a liberation. If this story is acceptable, so, too, should be homosexual marriages.³¹

Thus, the ground of marriage is the mutual identification of two people as one couple. This unity of difference is at the heart of Hegel's justification of marriage. Clearly, it is true that such mutual identity is possible for gay and lesbian couples as much as it is for a heterosexual couple.³² Therefore, Hegel's defence of marriage can be extended beyond the traditional family to non-traditional families, such as homosexual marriages.

In order for this argument to work, we must remove key parts of Hegel's defence of marriage. Hegel rejects incest on the grounds that marriage must be a relationship amongst 'infinitely unique' persons and *not* 'naturally identical' persons (PR, §168). The primary problem with incest is its inability to unify sufficient differentiation between two people (see PR, §165). If such differentiation between men and women who are blood-related is inadequate, then it is impossible to see how Hegel would be more satisfied with same-sex couples. For Hegel, a couple must be built up from the unity of extremes and one such unity is a man and woman. Each are human beings and represent two genders. Same-sex relationships are a union of only one form of human existence, either between men and women. As such, it might be characterised as 'one-sided' and incomplete. Indeed, it is not enough simply to love someone of the opposite sex as the requirement of sufficient differentiation demands we choose a partner of a different gender who is also unrelated to us. Hegel nowhere discusses same-sex relationships and any consideration of what his views on the subject are would be speculative (in the commonsense understanding of the word) to some degree. However, I believe we can make some judgements on what Hegel's views endorse with greater safety than others. I nowhere doubt the ability of any variety of human relationships to create a loving unity in actual fact. All I question is that this unity would satisfy Hegel's theory of family. Those who argue his views extend beyond traditional families must do so by overlooking key aspects of his theory. Perhaps this is what we should defend ourselves. My purpose here is only to make more explicit what Hegel's position is, no matter the difficulty of accepting it.

A more important aspect of marriage, for Hegel, is the production of children.³³ It is worth noting that his defence of marriage underwent a significant change between his original lectures on political philosophy in Heidelberg and the publication of the *Philosophy of Right* after Hegel moved to Berlin a few years later. In his Heidelberg lectures, it is clear that Hegel places importance on the unity of a couple, rather than the production of children (see LNR, §78R, 80R). At this time, he argues that so long as a couple possess a loving desire to create a unified identity, it is unimportant if the couple can have children. Thus, infertile people can marry (see LNR, §78R).

Hegel very clearly breaks from this position in the *Philosophy of Right*. Not only is the production of children considered necessary for the external embodiment of a couple's love, but it is justified in terms of the dialectical structure that informs his wider philosophical system. The traditional family is justified as a fulfilment of the syllogistic structure of universal, particular, and individual. For example, Hegel tells us that '[c]onception, therefore, is nothing else but this, that the opposite moments, these abstract representations, become one' (EN, §369A). The production of children fulfill dialectical rationality. Without children, a couple remains incomplete and their love for each other has only an internal existence. A couple can only 'fulfill their destiny' in having children (see EN, §370).

It is not clear to me that non-traditional families can satisfy Hegel's rationalist criteria in other ways. For example, if the production of children is significant as embodying the love two people share for one another, then it seems to rule out the production of children through artificial insemination or egg donation when the donor and donation recipient are not producing this child together as a means of externally embodying their love of one another. A child conceived through a third party's semen or egg is a child who may receive the love he or she deserves, but it is not the physical, external embodiment of a couple's love that Hegel defends. Furthermore, adopting children fails to overcome this worry on the same grounds that the adopted child is a physical embodiment of another couple's activity and not the love of the adopting parents. We may all reject Hegel's stance – and I reject his views – but his stance in the *Philosophy of Right* very clearly justifies a particular form of life whose fulfilment is found in that couple's loving, sexual union with the aim of producing children of their own. Hegel is satisfied with this account given his understanding of logical development as a creative unity: we would expect to find differences vanishing in unity that produce something new out of themselves. The production of children is central to the complete, concrete actualisation of a couple's unity. Furthermore, the production of children is an activity of the couple that expresses their union. Childless couples or homosexual couples with (or without) children fail fully to satisfy Hegel's criteria for a more perfect union based upon his systematic enterprise. We may reject his views, but we should first note precisely what these views are.

In this section, I have argued that Hegel's theory of the family justifies the traditional arrangement of husband and wife with children, although on non-traditional grounds. The most rational form of family life is a married life with children. Other forms of relationships are not without value on Hegel's story, but all alternative familial arrangements are incomplete to the degree they depart from his ideal – and it is most important that we

recognise Hegel's theory of the family is the *ideal* family: it is not a family we are all expected to experience, even if it is Hegel's view that we would all benefit most if we did have this experience.

This fact was as true for Hegel as for virtually everyone else. Hegel did not himself enjoy a particularly happy family life and we should keep this in mind when considering his views on the family: he may be defending the received wisdom of his day, but he is not defending the life he led. For example, Terry Pinkard tells us in his biography of Hegel:

on Hegel's own account . . . nobody from his family attended his wedding. Indeed, outside of his relations with Christiane [his sister], Hegel seems to have had virtually no contact at all with his family. He never speaks of his father, and he never speaks of his brother.³⁴

Hegel lost both his parents relatively early in life and did not marry until he was forty-one years old: his marriage took place after he had conceived an illegitimate child with his already married landlady. When we find Hegel giving a picture of the family, he is nowhere denouncing those with different backgrounds because, in fact, he has himself enjoyed a different experience of family. Instead, Hegel merely looks to the world as we find it through the looking-glass of his dialectical logic. Given the structure of his logic, it best coheres with the traditional family in a way that does not extend as completely with alternative relationships. Hegel may justify the traditional family on non-traditional grounds, but these grounds only justify in full the traditional family.

IV GENDER ROLES IN THE FAMILY

We have now discussed the outline of Hegel's theory of the family. Hegel clearly justifies the traditional family on non-traditional grounds, namely, his speculative logic. We have been able to throw out competing arguments that claim his justification of the family extends to non-traditional families. In this final section, I want to examine a particularly controversial aspect of Hegel's theory of the family: his defence of different gender roles in the traditional family. For Hegel, not only must the family consist of a husband and wife, but they each have particular duties. This has rightfully drawn strong criticism from many Hegel scholars and feminists alike. I will first discuss what Hegel's views were on gender roles and why he held these views before turning our attention to criticisms that have been offered of his views. My argument will be that we all disagree with Hegel's division of gender roles, but that his views rest on, again, an application of his logic

which informs his arguments. From that perspective, gender roles become justified.

The picture Hegel paints of the family is traditional in many respects, extending to traditional gender roles. The husband is the head of the household (see *PR*, §171). In addition, they engage in spheres beyond the family, including civil society and the state. Thus, only men enjoy employment outside the home and full political participation in the life of the state. For Hegel, the place of women is clearly in the home and not civil society or the state (see *PR*, §§166, A).³⁵ Following Reyburn, we might say that '[s]he is not called upon to face the full blast of the wind of the world, but is sheltered from it by her husband'.³⁶ Her primary station in life is to bear children and maintain the household.

We saw that Hegel's defence of the traditional family was not grounded on a traditionalist view. This applies likewise to his views on gender roles. For Hegel, men and women have a natural difference. As we have seen above, their difference and possibility of unity in marriage and the production of children easily map onto Hegel's logical structure. This natural difference, however, is not merely physical, but also extends to the rational abilities of men and women. Thus, Hegel says, 'The sexes are naturally different, but this difference is reconstructed within them by virtue of their rationality. Each sex contains both moments, but developed in different directions' (*LNR*, §77R, *PR*, §166). Men and women complement each other in specific ways. One way is that men are characterised as 'active' and women as 'receptive' (*EN*, §369A; *PR*, §166).³⁷ In Hegel's day, a family with children could not rely on family-friendly work policies or day-care provision. One member of the couple would need to stay home to help raise the children, while the other sought employment in order to provide for the material well-being of the family.

Hegel believed women were less rational than men (*PR*, §166A). He says:

Women may well be educated, but they are not made for the higher sciences, for philosophy and certain artistic productions . . . When women are in charge of government, the state is in danger, for their actions are based not on the demands of universality but on contingent inclination and opinion. (*PR*, §166A)³⁸

As less rational, they are naturally less suited to engage in higher affairs of civil society and political life. Instead, their talents pertain to only 'immediate life' in the home (*LNR*, §77R). Women display specific abilities and talents in the home, such as child-rearing, cooking, etc. (see *PR*, §166).³⁹

Before turning to criticisms of Hegel's views, it is clear that Hegel did not see women as bonded servants. That is, women play as important a role in the foundation of ethical life and, in fact, primarily make the family possible. We are reminded by Hegel's defenders that he held Antigone in the highest esteem (see PR, §166R; PS, pp. 464–8, 473–5): 'This is hardly a vision of woman as generally stupid, submissive, weak, or incapable'.⁴⁰ Indeed, women are compatible with men: together they provide for the creation and maintenance of the family – one cannot do it without the other.

Nevertheless, it is equally clear that even if women and men share equally the task of maintaining a family, women are disadvantaged in several ways, not least their inability to seek employment or enjoy full political participation. Thus, only men can become 'concrete' persons as they develop beyond the family, whereas women remain behind.⁴¹ It must also be clear that this view of women as incapable beyond the family and lacking in equal rational abilities with men seems grounded far more in Hegel's negative views of the abilities of women overall.⁴²

All philosophers today reject the view that women alone should have the role of homemaker and men alone enjoy an occupation and full political participation.⁴³ In addition, all philosophers today reject the view that women are naturally less rational than men. It is then unsurprising to find that contemporary scholars reject Hegel's views on gender roles.

Carole Pateman argues that Hegel's views on the relationship between a husband and wife is the same as the relation between a master and slave: 'a husband is not engaged in relations with other men, his equals: he is married to a woman, his natural subordinate'.⁴⁴ Thus, the husband in the family has an equal, namely, husbands in other families. A husband's wife is not his equal and it is only her that he lives with in a family. The husband is master and the wife his slave. This criticism misses its mark.⁴⁵ A husband and wife may not be equal in many respects, such as full enjoyment of the world of employment and political participation. They are not, however, engaged in any struggle against each other, and certainly nothing akin to the so-called master and slave battle for recognition we find in Hegel's *Phenomenology of Spirit*. Instead, a husband and wife do not struggle against each other for recognition, but work together as one complete union to a common end: to create a special bond based on love that finds external existence in the production of children. This union requires the husband and wife to work in tandem, not at odds. It is incorrect to think that their relationship is of a master and slave.

A second argument against Hegel's theory of the family is offered by John McCumber. He claims that marriage amounts to no more than

'a biologically-based causal relation between husband (the cause) and wife (the effect)'.⁴⁶ This makes impossible equality between the two as the husband is dominant.⁴⁷ We should reject Hegel's theory of the family because it denies equality between the sexes. Perhaps McCumber is absolutely correct to reject Hegel's theory. However, it is not the case that the wife is simply an effect of the husband nor is it clear how she could play this role. The husband and wife together unite in love, they together conceive children, and they work together towards the maintenance of their family in tandem. We may disagree with the particular roles Hegel claims for each gender. It is not clear, however, that they have unequal status in the family. If anything, our worry is primarily with Hegel's insistence on leaving women out of other areas of life and the gender roles he assigns.

Similarly, Jean-Philippe Deranty argues that Hegel's views 'should have led him to conclusions very close to recognising women's equal rights in social, economic and political spheres'.⁴⁸ Thus, Deranty agrees with McCumber's view that the husband and the wife should not be unequal. Deranty adds to this view that it is not a view to which Hegel's views are committed. One argument is that Hegel should not have given significance to natural gender difference in the manner he does.⁴⁹ Each person in the family – both the man *and* the woman – 'must at the same time preserve the home and work' together equally.⁵⁰ Why should it matter who works and who looks after the home so long as these tasks are performed?

For Hegel, it matters who does which task because he claims that there are real differences between the tasks to which men are best suited and those to which women are best suited. This view is denied by some commentators. Robert Williams argues that 'Hegel does not simply hold that women are naturally inferior to men'. He continues:

To be sure, Hegel's claim that woman is just as much *Geist* as is man is made in the context of his discussion of marriage . . . If woman is also *Geist*, then there is no reason in principle why she may not have a public vocation . . . feminist criticism that Hegel's *Philosophy of Right* does not fully recognize women as human beings is, on Hegel's terms, legitimate.⁵¹

This view makes the mistake in thinking that all human beings equally participate in the development of *Geist*, that is, of 'the human spirit'.⁵² However, Hegel sees clear differences between men and women. For him, the natural difference in gender is a rational difference (PR, §165; see LNR, §77R). It is true that elsewhere he notes the rationality in natural differences between human beings. This takes place in his treatment of 'anthropology' that precedes his discussion of the state,⁵³ where he argues that:

descent affords no ground for granting or denying freedom and dominion to human beings. Man is implicitly rational; herein lies the possibility of equal justice for all men and the futility of a rigid distinction between races which have rights and those which have none. (ES, §393A)

Hegel then claims we can see different races of people in ascending superiority to others, headed by Europeans as only in Europe ‘prevails this infinite thirst for knowledge which is alien to other races’ (ES, §393A). Thus, we find on gender and on other issues Hegel claims that natural differences can often entail rational differences.

As we saw earlier, Hegel claims men and women develop their rational capacities in different directions, while both are mutually compatible. Women have a capacity to nurture and maintain the home that men do not have; men have a capacity for so-called ‘higher’ pursuits outside the home and best represent the family in civil society and the state. For Hegel, these differences between men and women signify the tasks best suited to them. Thus, women are best suited for rearing children and homemaking, with men best suited for civil society and the state. It makes no sense to think that men would be best suited to homemaking given their inferior capacity for homemaking. Of course, Hegel’s world is one without family-friendly flexible working hours and day-care.⁵⁴ If these had existed in Hegel’s time, then perhaps he might have accepted a limited space for women outside the home. Nevertheless, Hegel reminds us that philosophy always appears on the scene too late as a thinking over of what has passed before. A Hegelian picture is one where someone must stay home to look after the children and home, while another takes part in civil society and the state. This picture is best supported by a view of a gender best suited for one task and the other a second task, genders and tasks that each come together into a perfect organic unity. Men and women embody the same human spirit, but each plays complementary – and different – roles in tandem and in keeping with the structure of Hegelian rationality.

Obviously, Hegel may well have defended such a view of gender roles. The question now becomes how we make stock of his view. For example, we might follow Paul Franco, who says:

In defense of Hegel, it can be pointed out – and often is – that his views of the respective natures and roles of men and women are typical of the popular and even intelligent opinion of his time . . . it should also be noted that Hegel does not regard women as simply inferior to men . . . women possess a certain emotional and psychological intelligence.⁵⁵

The second part of Franco's claim is certainly true: women play an equal role to men *in the family*. Both women and men are joined together in a common project and complement each other in important ways. While I suspect that Hegel's views may well have been influenced by the times he lived in, they do not explain why he held the peculiar views he did. However, Hegel's views on rationality take seriously the existence of difference which comes together in unity. We can hardly be surprised that his views on rational structure could be used to defend a traditional family on non-traditional grounds. Moreover, it seems clear that such a view, in order to give full recognition to difference, can support different gender roles. Hegel is clearly wrong to claim that women are less rational than men; however, if difference matters, then we should expect difference to play a role with gender divisions also. What matters most is that this difference is sublated into a higher unity: my picture of Hegel's husband and wife joined together in a common project, working in tandem to the same end, but in different ways, is precisely what is justified by Hegelian rationality. Whether or not we are persuaded by such an account will, of course, depend on how convinced we are of Hegel's logic.⁵⁶

My presentation is *not* in any way a defence of Hegel's views: the Hegelian family has problems. Instead, my aim has been simply to be clear about what these views amount to so that they may receive the criticism they deserve. We should not blind ourselves to Hegel's shortcomings.

V CONCLUSION

I noted in the beginning of this chapter that my aim was not to *justify* Hegel's theory of the family, but to *explain* it, following his arguments and seeing where they led us. One part of my conclusion is that I cannot but agree with the vast majority of commentators: Hegel endorses a traditional family of husband and wife with children where the wife's roles are limited to homemaker and mother. I share in the disappointment of many readers that Hegel's view of the family was not more progressive.

There is more to my account than what we find in the literature. I have demonstrated that Hegel's views on the family do not extend to homosexual relationships. Indeed, I have explained how his views on speculative logic which supports the rationalist dialectical structure behind Hegel's arguments foreclose such readings of Hegel's views. Not only does this perspective demonstrate that Hegel's theory only justifies heterosexual, monogamous marriages, but it also explains Hegel's prohibition on incest.

Nothing in this chapter is designed to make Hegel's views more appealing. I accept that in our day and age this is a task next to impossible, nor is it

an enterprise I am interested in seeing through. Indeed, my presentation of Hegel's views on the family perhaps make his views even *less* appealing. Our task is not in the repackaging of the ideas of past philosophers to make them more attractive to contemporary readers at the expense of losing the authenticity of these ideas. Instead, our task is to try to develop an improved reading of Hegel, a reading grounded in a systematic reading of his texts. This is precisely what I have attempted here. The Hegel we find may remain largely familiar, but we can make best sense of his arguments with this approach and improve upon past accounts. The systematic reading is a better reading of Hegel's *Philosophy of Right*.

CHAPTER 6

Law

I INTRODUCTION

Hegel's legal philosophy has been categorised in various ways. Different commentators claim Hegel's theory endorses natural law,¹ legal positivism,² the historical school of jurisprudence,³ a precursor of Marxist legal theory,⁴ postmodern critical theory⁵ or even transcendental idealist legal theory.⁶ In my previous work, I have argued that Hegel's legal philosophy occupies a space in between natural law and legal positivism.⁷ I no longer hold this view and present a new picture of Hegel's legal theory in this chapter.

I will defend the position that Hegel is a natural lawyer, although not of a more familiar variety. Natural lawyers argue that there is an external standard or set of standards which we can employ to assess the justice of our positive, or written, laws. Hegel's natural law differs from these accounts insofar as he uses instead an *internal* standard of justice that is immanent to law. Whilst most natural law proponents endorse an *externalist* natural law, Hegel endorses an *internalist* natural law. On this score, Hegel's views present a major break from the main jurisprudential traditions, which would then explain the enormous difficulty commentators have had in classifying Hegel's views within any of the main traditions.

The chapter will be organised in the following way. First, I will explain the primary features of the natural law tradition followed by a consideration of how closely Hegel's theory of law resembles this general perspective. In the third section, I will argue that Hegel's theory presents us with an internalist natural law. The chapter concludes with a discussion of the role of popular institutions in the development of law.

II THE NATURAL LAW TRADITION

Perhaps the best classic statement of natural law is found in Cicero's *De Re Publica*.⁸ In this text, Cicero says:

True law is right reason in agreement with nature; it is of universal application, unchanging and everlasting; it summons to duty by its commands, and averts from wrongdoing by its prohibitions. And it does not lay its commands or prohibitions upon good men in vain, though neither have any effect on the wicked. It is a sin to try to alter this law, nor is it allowable to attempt to repeal any part of it, and it is impossible to abolish it entirely . . . there will not be different laws at Rome and at Athens, or different laws now and in the future, but one eternal and unchangeable law will be valid for all nations and all times, and there will be one master and ruler, that is, God, over us all, for he is the author of this law, its promulgator, and its enforcing judge. Whoever is disobedient is fleeing from himself and denying his human nature, and by reason of this very fact he will suffer the worst penalties, even if he escapes what is commonly considered punishments.⁹

Cicero here offers a number of statements that are representative of the natural law tradition. I will discuss each of these positions in turn.

First, following Cicero, natural lawyers distinguish between ‘law’ and ‘true law’. Not all laws are *true* laws which is a manner of saying that some laws are *more law* than other laws and, thus, not all laws share equal standing. This point is related to a second point: we distinguish between ‘law’ and ‘true law’ from a particular point of view, namely, a standpoint of justice. The more our laws cohere with and embody the standpoint of justice, the more *true* our laws. Thus, laws that are inconsistent with this standard of justice are not merely morally corrupt and unjust, but not law properly speaking. A common natural law view is that *lex iniusta non est lex* (‘an unjust law is not law’). The law can enjoy varying degrees of justice (and injustice). A law becomes more valid (or ‘true’) the closer it approximates ‘justice’. Laws are invalid (and false) the closer they approximate ‘injustice’. Thus, laws consistent with a standpoint of justice are more ‘law’ and ‘true’ than laws which are inconsistent with this standard. Furthermore, laws that are inconsistent may not be ‘law’ at all. The status of law is relative to the degree a law is commensurate with justice.

For a comparison, this view of law differs sharply from legal positivism.¹⁰ Following John Austin, positivists hold that ‘[t]he matter of jurisprudence is positive law: law, simply and strictly so called’.¹¹ The study of law is primarily of the law independent of any normative evaluation. Thus, Austin says:

The existence of law is one thing; its merit or demerit another. Whether it be or be not is one enquiry; whether it be or be not conformable to an

assumed standard, is a different enquiry. A law, which actually exists, is a law, though we happen to dislike it, or though it vary from the text, by which we regulate our approbation or disapprobation.¹²

Postivists believe that *what* is law is a distinct subject apart from our *assessment* of what is law. This position is called 'the separability thesis'.¹³ Natural lawyers disagree with positivists in denying that the existence of law is a separate question from the law's normative assessment. For natural lawyers, a law's validity often depends upon the law's coherence with a normative standard. We do not speak of two different enterprises when we discuss questions of what is law and what is law's normative justification as the one informs the other.

The standpoint of justice we employ derives from one of two forms: metaphysical or rational. A metaphysical standpoint of justice is theological in nature, holding that the proper view of justice is from the perspective of God. Cicero supports this understanding of natural law when he argues that 'the author' of natural law is God.¹⁴ Others who share this view of natural law include St Augustine and St Thomas Aquinas.¹⁵ The key to the metaphysical understanding of law is that justice depends upon the existence of God: justice is not merely something God agrees with, but something that God prescribes.

A rationalist view of the standpoint of justice holds that the source of natural law is reason. Thus, we can employ our power of effective reasoning to determine the necessary features of a conception of justice without having to rely on any view of theology. Justice may be something that God might agree with, but it is not dependent upon God. Justice is dependent upon reason. Natural lawyers in this second camp include John Finnis and Lon Fuller. For example, Finnis provides a list of seven 'basic forms of good' from which we can evaluate the justice of law.¹⁶ Fuller argues for the necessity of eight institutional features in any just legal system, such as publicity of law and the absence of retroactive legislation. Legal systems that lack these features are to varying degrees invalid systems of law.¹⁷

The metaphysical and rationalist conceptions of justice are not always mutually exclusive. In fact, most metaphysical conceptions agree that their view of law is also the most rational. Indeed, these metaphysical views often argue that their position is most rational because their view is most consistent with God's perspective, itself a view that is perfectly rational. In either case, natural lawyers insist law is 'natural' in either its agreement with a natural order preordained by God, its agreement with our natural reason, or some combination of the two.

A third point is that often 'true law' entails that the law is universally and

eternally true. Thus, Cicero says that '[t]rue law . . . is of universal application, unchanging and everlasting'.¹⁸ This position is true for both metaphysical and rational views of natural law. If God is the author of what is to serve as a human justice, then what God prescribes binds us all. If, however, our natural reason serves as the source for natural law, then its conception of justice binds us all insofar as all human beings share an equal capacity for reasoning. In either case, the normative source of justice and true law holds constant – God's prescription and reasonableness do not alter over time – but which laws are held as most 'true' may be sensitive to historical changes. That is, 'right reason' may well prescribe different legal outcomes in different situations. This need not imply in all cases that the standard of reasonableness has changed (nor that perhaps God has changed minds about a scenario), but only that its application is sensitive to circumstances.

A fourth and crucial point is that natural law's standpoint of justice is a standpoint that is situated *externally* to law.¹⁹ We arrive at our standard of justice that we use to measure the validity of our laws largely independently of these laws. Thus, either through a metaphysical or rational route we arrive at a set criteria with which we measure the validity of laws. Those laws most commensurable with our criteria are most 'true'; those laws least commensurable are invalid. This criteria is something we apply to law in our normative appraisal of law.

In this section, I have endeavoured to demonstrate four general features of most natural law theories: (1) we can make a distinction between 'law' and 'true law', (2) we distinguish 'law' from 'true law' from the standpoint of justice, (3) 'true law' often entails the law is universally and eternally true, and (4) the standard of justice is external to law. Our task now is to see how close Hegel's legal theory comes to satisfying this criteria. I will argue that his theory satisfies conditions (1)–(3), but fails on (4), suggesting a new view of natural law and a substantial break from the natural law tradition.

III IS HEGEL A NATURAL LAWYER?

We have now been presented with a general picture of the natural law tradition. This picture holds for both its more classical and antiquarian defenders, such as Cicero and Aquinas, as well as its more modern adherents, such as Finnis and Fuller. In this section, I will argue that Hegel's legal theory satisfies all but one of the four general features of natural law identified above in section II.

For one thing, Hegel argues that there is a strong link between morality and law. For example, moral norms find expression as just, or more 'true',

laws.²⁰ Any proper understanding of law then requires an account of justice.²¹ Thus, morality and law are not independent of one another; they are, instead, interrelated. Hegel's legal theory then clearly violates legal positivism's separability thesis described above. This thesis states that law and morality are not inextricably linked in all evaluations of law. Whatever else Hegel's legal theory might be, it is not a legal positivist theory. Nevertheless, Hegel does offer an account of normativity that is conceptually separate from law. However, on this account, law is understood as developing in tandem with this normativity. Thus, Hegel theorises spheres of abstract right (PR, §§34–104) and morality (PR, §§105–41) prior to his primary theory of law (PR, §§209–28), a theory that immanently continues the development of right begun previously in the spheres of abstract right and morality.

It is then unsurprising to find that not only does Hegel link morality and law together, but that he also distinguishes between law and justice. Law is more valid, or true, when it best coheres with morality. Thus, Hegel argues that 'what is law [*Gesetz*] may differ in content from what is right in itself [*an sich Recht*]' (PR, §212). For example, slavery may be *both* legal, valid, *and* unjust.²² Law becomes more consistent with justice (and, hence, increasingly valid) insofar as law is a 'realization [*Verwirklichung*]' of 'right [*Recht*]', that is, insofar as law embodies 'right' (ES, §529 (translation modified)). Hegel often plays upon the ambiguity of the German word for right ('*Recht*') which can be understood as right in a legal setting – as in having the right to do something – or right as a form of justice – as in being in the right. *Recht* can also be translated as 'law', although Hegel also uses the word '*Gesetz*': *Gesetz* can be translated as 'law' or 'statute'. However, Hegel does not use *Recht* and *Gesetz* interchangeably. Instead, he tends to use *Gesetz* for law and *Recht* for 'true' law or justice.²³ Nevertheless, these two concepts come together when Hegel tells us that 'actual legal relationships presuppose laws founded on right [*Rechtsgesetz*] as something valid in and for itself' (LNR, §109). We can distinguish between *Gesetz* from *Rechtsgesetz* in that only the latter represents law that is fully commensurate with justice. All other varieties of positive law [*Gesetze*] embody lesser forms of legal justice [*Recht*].

Hegel's use of *Recht* as legal justice is not only true for one community, but true for all states. Indeed, one part of his criteria for how well developed different states have become relates to each state's ability to transform their laws from simply statements of legality to embodying justice. Those states that have laws more commensurable with justice are held in higher regard by Hegel than those that have fared less well.²⁴ Thus, Hegel's standard for determining the relationship between law and justice applies to all communities equally. However, he does not argue that this shared application entails that law is unresponsive to changing circumstances. Instead, he says:

‘A perfect, fully complete code of laws is an unattainable ideal; rather it must be continually improved’ (LNR, §109R). We hope in despair if we aspire to create a single legal code that is inflexible and eternal. The standard by which we normatively assess the justice of our laws is fixed; the problems with which law must concern itself with are not fixed. New circumstances entail new understandings of what justice demands of our law.

IV HEGEL’S NATURAL LAW INTERNALISM

We have now seen that Hegel accepts several key features of traditional natural law theories. First, Hegel makes a distinction between ‘law [*Gesetz*]’ and ‘true law [*Rechtsgesetz*]’. Secondly, Hegel offers this distinction from a standpoint of justice. That is, more true (or more valid) laws cohere more with justice than less true (or less valid) laws. Thirdly, this standard holds universally for all communities. On these counts, Hegel clearly offers us a natural law theory.

The remaining question concerns a fourth point: namely, whether or not Hegel’s legal theory adopts an *external* standpoint of justice with which it normatively assesses the validity of laws. In this section, I will argue that Hegel rejects what we might call an *externalist* natural law theory in favour of an *internalist* natural law theory. Natural law *internalism* holds that the normative standard we use to evaluate law is internal, not external, to law. This position is a major break from the natural law tradition. In fact, most accounts of this tradition neglect an understanding that, until Hegel, all commentators employed standards external to law. Hegel is the first to claim we can use a standard internal to law, creating a space for a new understanding of natural law.²⁵

For Hegel, our understanding of law is centred on law itself. He says that ‘what is *legal* [*gesetzmäßig*] is . . . the source of cognition of what is *right* [*Recht*], or more precisely, of what is *lawful* [*Rechters*]’ (PR, §212R). We do not begin our assessment of law with a normative standard in hand; we begin instead with the law as it is before us. However, our normative standard is within the law itself: what is right [*Recht*] is instantiated within what is lawful [*Rechters*].²⁶ Thus, justice is not something we apply externally to the law, but a normative standard that immanently develops within the law itself. Hegel’s view of law is an account of ‘the present and the actual, not the setting up of a world beyond which exists God knows where’ (PR, p. 20).²⁷

Robert Stern captures well how internal development of law might be best understood. He says:

we can use here an 'internal' notion of rationality, whereby it is rational to change from one outlook or theory to another *not* because the latter possesses the transcendental predicate of 'truth' or 'absolute validity', but rather because it represents a resolution of the problems, incoherences, anomalies, inconsistencies and limitations of the *previous* scheme or theory, and so constitutes an advance on it, in relative but not absolute terms.²⁸

In other words, we should understand the progressive, immanent development of law in the resolution of inconsistencies and anomalies within the law. Hegel argues that it is then our task to delineate precisely how we can understand law's development of internal normativity. At first glance, legal systems may appear to be little more than 'a collection without principle, whose inconsistencies and confusion require the most acute perception to rescue it as far as possible from its contradictions' (GC, p. 11). For Hegel, law should seek to resolve these contradictions from within its own resources (see PR, §216).²⁹ In order to best achieve this goal, our law must internally develop its normativity. Hegel says:

the progress from that which forms the beginning is to be regarded as only a further determination of it, hence that which forms the starting point of the development *remains* at the base of all that follows and does not vanish from it. (SL, p. 71 (emphasis added))³⁰

Our progressive comprehensions of law are produced from within law's own normative content (see PR, §31). Likewise, all developments of law entail an increasingly robust knowledge of law. Thus, the development of a system of laws may appear as a change in the number of valid laws.

In addition, Hegel tells us that '[t]he scope of the law [Gesetze] ought on the one hand to be that of a complete and self-contained whole, but on the other hand, there is a constant need for new legal determinations [gesetzlicher Bestimmungen]' (PR, §216).³¹ Hegel says:

an advance of the analytic intellect, which discovers new distinctions, which again make new decisions necessary. To provisions of this sort one may give the name of *new* decisions or *new* laws [Gesetze]; but in proportion to the gradual advance in specialization the interest and value of these provisions declines. They fall within the already subsisting 'substantial', general laws, like improvements on a floor or a door, within the house – which though something *new*, are not a new *house*. (ES, §529)

Therefore, what is *new* in any determination of law's normative content is only the implicit aspect of this content that had not been recognised previously. Crucially, for Hegel, law is a seamless web and we must endeavour to articulate these implicit, yet thus far unrecognised, legal determinations from within law's normative content. The more these determinations are made explicit, the richer our understanding of law becomes, and, in addition, the closer the law coheres with justice. Hegel's purpose is then to show us how we ought to think about the laws we have. Our law progressively develops into justice as we fill apparent gaps in the law and resolve internal contradictions.

For example, the arrival of the Internet as a new medium of global trade and interaction brought with it a corresponding recognition of additional legal gaps. Previous legislation and precedential authority had not been created with an eye to resolving potential problems specific to the use of the Internet. For Hegel, when we try to incorporate resolutions to these potential problems, we do so with an eye towards making our law a more coherent and complete body of law. In addition, we do so by employing resources internal to law, such as its immanent normativity. Thus, in online trade disputes, we might seek to validate certain laws and precedents in a manner similar to more conventional trade disputes. When there is more than one law or precedent to choose from in any particular case, we appeal to one that brings out what we believe to be a superior understanding of justice immanent to our law that brings better coherence to our legal system as a whole. In this way, we engage in the developmental progress of our laws as we fill gaps in the legal web. Of course, mistaken choices may be made along the way. However, we may replace the mistaken choices we have made in these circumstances: if we do not, then we would be building into the law a variety of mistakes that might further contribute to future incoherence.

In filling in these 'gaps' in the law's seamless web, we engage ourselves in the task of *codification*.³² For example, Hegel assumes that the initial attempt of any community at constructing the best legal system it can will never be its final attempt. Legal codes exist primarily as an incomplete collection of various laws (PR, §211R).³³ Additionally, this task is not achieved overnight, but is 'the work of centuries' (PR, §274A). In this effort, Hegel endorses codification of all legal determinations (PR, §211R).³⁴ Therefore, we must make some attempt at formulating law explicitly in order to become more clear about what is our law.

This formulation may not turn out ultimately to be correct – perhaps it is mistaken at first – but such attempts to make explicit what justice demands serves as a precondition for our ability to further develop our comprehension of justice. Thus, Hegel claims that justice [*Recht*] comes to have

'existence [*Dasein*] in the form of law [*Gesetzes*]' rather than in 'particular volitions and opinions' (PR, §219). More importantly, at a general level, law plays an instrumental role by enabling members of the community to gain a 'cognition of what is *right* [*Recht*], or more precisely, of what is *lawful* [*Rechters*]' (PR, §212R).³⁵ Unsurprisingly, Hegel disapproves of English common law – claiming that it is riddled with 'enormous confusion' – on account of its being a 'so-called unwritten law' (PR, §211R). Hegel's argument is that if we do not make any genuine attempt at making more explicit our comprehension of what is justice in the form of law, we then lack a more secure basis from which we can refine our comprehension of what justice might demand. In this sense, we shed some degree of arbitrariness of what justice demands when we make an attempt to express it or, in Hegel's words, when we make justice more 'determinate' (GC, p. 52).

It is important to note that there are limits on how law might develop, not least a clear respect for individual rights. In his view, individuals have a right to what he calls 'subjective freedom': a space where individuals can pursue freely their particular interests without infringing the rights of others in their community (PR, §§153, 154). One more obvious example of subjective freedom, for Hegel, is the right individuals possess to fall in love and create their own families.³⁶ All things considered, Hegel believes that those who fail to create a family do not enjoy as much freedom as those who do create a family.³⁷ Nevertheless, the law ought never command any person to marry and procreate and, thus, individuals enjoy a space where law cannot intrude. A second subjective freedom is the right of individuals to choose their own occupation.³⁸ While in each case Hegel argues that states should not interfere, he does *not* claim that in limiting the state we refuse to make explicit any genuine rights of others – including the collective interest. It is not a matter of setting limits for political deliberation, but rather the case that there are no such rights to be found. As a result, Hegel does not recognise the legal entitlement of individuals to engage in acts of civil disobedience. In fact, 'duty requires all citizens to rally to [the state's] defence' (PR, §326).³⁹

If the law is a seamless web, then is it possible for us to create a perfectly coherent legal system where all laws are made explicit for all time? As we saw earlier, Hegel disagrees: 'a perfect legislation, together with justice in accordance with the determinacy of the laws, is inherently impossible' (NL, p. 144). The problem, in Hegel's view, is that law must speak to a variety of cases and remain sensitive to changing particular circumstances. While it is possible to reflect on past legal decisions to help calibrate our present determinations of law, it perhaps remains impossible to predict unforeseen issues that might arise in future cases. If anything is certain, then it is certain that such issues

will present themselves to us over time sooner or later. Hegel rightly tells us that, 'It is therefore mistaken to demand that a legal code [*Gesetzbuch*] should be comprehensive in the sense of absolutely complete and incapable of further determinations' (PR, §216R). In fact, he thought that law must always be flexible enough to accommodate future changes in 'a perennial approximation to perfection [*Vollkommenheit das Perennieren der Annäherung*]' (PR, §216R). This fact of law – that is, that it will always remain incomplete in its applicability – is, of course, never a reason to abandon having laws, but a necessary feature of any legal system.⁴⁰

In the previous section, I argued that Hegel's legal theory fulfilled at least three of the four general characteristics of the natural law tradition. I have argued in this section that Hegel offers a distinctive position on the fourth characteristic. All natural lawyers argue that we should assess the validity of law with respect to a standard of justice. Most natural lawyers employ an external standard of justice. I have argued that Hegel, on the contrary, offers an internal standard of justice, namely, *Recht*, instead of an external standard. I have further tried to clarify how this internal standard might be deployed in the internal normative development of law. Hegel is a natural lawyer, even if of a unique variety.

V THE ROLE OF POPULAR INSTITUTIONS IN LEGAL DEVELOPMENT

Of course, law does not develop from its own power. Human institutions are crucial to the immanent development of law as these institutions help articulate implicit legal rights within the larger legal web. We have seen that Hegel clearly endorses the view that the process of progressive normative development in law must entail greater codification, making more explicit our best comprehension of the demands of justice. Codification is desirable as a concrete attempt to ascertain justice. In this section, I offer an even clearer view of the role popular political institutions play in the internal normative development of law.⁴¹

Legal development transpires in part through the activities of legislators (see PR, §§298–320). Indeed, if lawmakers were to inject any personal convictions divorced from the community's shared sense of justice, then they can be said to 'taint' the law (see PR, §309). Hegel seems to take for granted that, in drafting new laws or revising old laws, legislatures both continually progress our comprehension of justice as positive laws and, in so doing, express a conception of justice held in common by the community as a matter of course.⁴² Therefore, a community's shared notion of justice – whatever it turns out to be – is crucial to how Hegel sees law progressively developing into something more commensurable with justice, in fact.

First, consider Hegel's use of 'abstract right [*das abstrakte Recht*]'. With abstract right, what is taken for 'right [*Recht*]' is what can be determined by agreement. His use of legal right builds off of this precondition. For example, in his view, it is very possible that in certain circumstances an individual may have correctly grasped some improved idea of the demands of justice, in some abstract sense. However, this will not constitute what will pass as law until its truth can be demonstrated persuasively to others first.⁴³

As a result, the transition away from a purely individualistic conception of right towards a more communitarian and 'true' conception of right entails our positive laws more closely corresponding to justice (see *PR*, §§144, 260).⁴⁴ Laws exist only as our best attempts to posit justice (see *PR*, §§210, 212). In other words, a community seeks to make explicit its best conception of justice with each individual act of recognising a particular written law.⁴⁵ The positive law is then a distinct application of a more general conception of justice.⁴⁶

Hegel's claims that the community plays a crucial part in the determination of justice as law is rendered problematic by his views on democratic legitimacy. For example, it is well known that Hegel holds a dismissive view of public opinion.⁴⁷ I would not like to suggest that, in Hegel's mind, the state should be *unresponsive* to the citizenry's approval or disapproval of public policies. In fact, Hegel notes that a state's long-term success will depend upon the popular support of its institutions. He says:

It has often been said that the end of the state is the happiness of its citizens. This is certainly true, for if their welfare is deficient, if their subjective ends are not satisfied, and if they do not find that the state as such is the means to this satisfaction, the state itself stands on an insecure footing. (*PR*, §265A)⁴⁸

Yet, while Hegel acknowledges that the state must earn the popular respect of its citizens he equally held that public opinion should influence a state's policies minimally. That is, Hegel did believe 'the people must take part in the making of laws and in the most important affairs of state', but he also believed that the best way for 'the people' to do this was through a body representing their interests rather than public referenda (see *NL*, p. 94). Thus, Hegel argues:

The idea [*Vorstellung*] that *all* individuals ought to participate in deliberations and decisions on the universal concerns of the state – on the grounds that they are all members of the state and that the concerns of the state are the concerns of *everyone*, so that everyone has a *right* to share

in them with his own knowledge and volition – seeks to implant in the organism of the state a *democratic element devoid of rational form* . . . The idea that *everyone* should participate in the concerns of the state entails the further assumption that *everyone is an expert on such matters*; this is also absurd, notwithstanding the frequency with which we hear it asserted. (PR, §308R)

In speaking of ‘a democratic element devoid of rational form’, Hegel rejects the legitimacy of a more pure democracy. He does *not* oppose democratic legitimacy of the state and its activities pursued in the name of the community. Indeed, Hegel believes that paternalist governments stifle freedom (see PH, p. 174). However, he does oppose the influence of arbitrary opinion on public decision-making, including the creation of law. Hegel’s theory is *not* anti-democratic *at all* – and certainly least of all totalitarian *pace* Popper.⁴⁹ In fact, as an example, Hegel takes issue with Chinese laws for their treating citizens like children ‘who obey their parents without will or insight of their own’ (PH, p. 104).⁵⁰

Despite Hegel’s unconventional endorsement of democratic governance, we may remain inclined to treat Hegel’s particular use of democracy as something in greater need of justification on account of its unrelatedness to our more contemporary understanding and support of democracy.⁵¹ One good example is voting rights. Modern democracies characteristically extend suffrage to all adult individuals. For Hegel, people are little more than an irrational mass ‘without articulation’ lacking a rational form (see LNR, §148R). Thus, he argues that ‘[v]oting rights must rest in commonalities, in corporations. Citizens must make their choice in ordered, recognized associations’ (LNR, §153R).⁵² If adopted, such an arrangement would greatly curtail the voting privileges of a great many people in liberal democracies whatever its merits – and not least those of women.⁵³

Hegel recognises correctly that from time to time ‘collisions [*Kollisionen*]’ will arise in the imperfect application of laws in some instances (PR, §211A).⁵⁴ This fact, however, is a great virtue of the judicial system rather than a defect, as Hegel says: ‘this is entirely necessary, for the implementation of law would otherwise be a completely mechanical process’ (PR, §211A). The development of law should thus be viewed as a living development of right and not merely an academic exercise. Hegel believes that there must be some leeway given in each case in order to accommodate the case’s peculiarities (see PR, §§214R, A). In his view, the law would be blind to the concrete cases from which it developmentally improves itself if it were to do otherwise. However, judges should never give voice to their own personal view as to right’s application in a case, as this would entail that the judge’s decision would be

'arbitrary [*Willkür*]' (PR, §211A).⁵⁵ Thus, the court's responsibility is to comprehend justice 'in the particular case, without the subjective feeling [*Empfindung*] of *particular* interest' (PR, §219).⁵⁶

Interestingly, Hegel claims that there should be a public space for the citizenry in the administration of justice, alongside judges. In his view, it is important not only that justice be done, but that 'citizens are thereby convinced that justice [*Recht*] is actually being done' (PR, §224A). For this reason, the administration of justice must be public (see PR, §§224, A, 227).⁵⁷ For Hegel, it was vital for the law to be known by the public as, in his view, the law somehow gives expression to a public conception of justice. If the public were unaware of the demands of their laws, then there would be a chasm between them and law could make no claim to public justice. However, this demand for law's publicity arises from the law's need for legitimacy. This too is only possible when the citizenry actively recognise the law as something binding on them.⁵⁸

Hegel says:

How blind are those who like to believe that institutions, constitutions, and laws which no longer accord with men's customs, needs, opinions, and from which the spirit has departed, can continue to exist, or that forms in which feeling and understanding no longer have an interest are powerful enough to furnish a lasting bond for a nation [*eines Volkes*]! (NL, p. 2)

Thus, whenever our institutions – including the administration of justice – fail to accord with what we might call the community's shared beliefs on justice, or a Rousseau-like general will, these institutions lose their legitimacy.⁵⁹ This public legitimacy is not majority-based, but has an 'organic quality' (PR, §302, R). As a further illustration, Hegel says that von Haller was 'an enemy of *legal codes* [*Gesetzbüchern*]' because he allegedly thought that legal knowledge could rightly be known by a few and used against the many (see PR, §258R). Thus, all legal systems must be accessible to the public, although the contents of such a system are determined by majority vote (see PR, §215).

One way in which the law could be known by the many is by using juries composed of non-legal professionals in the courtroom. In Hegel's view, jury trials are necessary because without them:

knowledge [*Kenntnis*] of right and of the course of court proceedings, as well as the ability to pursue one's rights, may become the *property* of a class [*Stand*] which makes itself exclusive . . . by the terminology it uses,

inasmuch as this terminology is a foreign language for those whose rights are at stake. (PR, 228R)⁶⁰

Juries thus help ensure that when citizens are on trial the proceedings of the court are reasonably capable of being ascertained. When the jury decides upon a verdict, the defendant may well disagree with the jury. However, the defendant should be able to have some inkling of how the jury came to a different view after the trial.⁶¹

To conclude this section, Hegel's internalist natural law develops through popular political institutions, including the use of juries. These institutions help give expression to the law's internal normativity. Any community's laws are not simply a code that regulates the activities of their members, but a reflection of that community's sense of justice. A community develops its self-consciousness of justice when it develops the normativity internal to its laws.

VI CONCLUSION

Hegel's legal theory has been understood in a variety of competing ways. This chapter has tried to shed new light on this old problem. I have sided largely with commentators who have claimed Hegel's legal theory for the natural law tradition. I have argued that Hegel's legal theory shares much in common with this tradition. For example, Hegel distinguishes between 'law' and 'true law'. This distinction is made from a standpoint of justice that holds universally for all states. The main difference between Hegel's legal theory and the natural law tradition as conventionally understood is that the latter employs a standard of justice that is external to the law in their normative assessment of the law's validity.

In contrast, Hegel's legal theory relies on a standard of justice that is internal to law. I have then coined the term 'internalist natural law' to capture this difference with Hegel's approach against 'external natural law' held by virtually all in the natural law tradition. Thus, Hegel's legal theory marks a significant break from the natural law tradition. I would credit Hegel's internalism for the difficulty commentators (and including me) have had in categorising his legal theory within various jurisprudential camps.

CHAPTER 7

Monarchy

I INTRODUCTION

Perhaps one of the most controversial aspects of G. W. F. Hegel's *Philosophy of Right* for contemporary interpreters is its discussion of the constitutional monarch [*der konstitutionell Monarch*].¹ This is true despite the general agreement amongst virtually all interpreters that Hegel's monarch is no more powerful than modern constitutional monarchies, such as those found in Britain.² This common view has only recently come into vogue, as Hegel's monarch had long been seen as evidence of Hegel's defence of the reactionary Prussian authority of his time. The view of Hegel as a reactionary was put forward most forcefully (and famously) by Karl Popper in his *The Open Society and Its Enemies*.³ He not only claimed that Hegel was 'an apologist for Prussian absolutism', but that Hegel is the father of modern totalitarianism.⁴ This reading of Hegel has now been discredited, due in large part to the work of T. M. Knox,⁵ and not least because of various liberal characteristics of the state that Hegel defends which were not features of the Prussia of his time, such as the use of jury trials and representative institutions, as well as the eligibility of all citizens for civil service.⁶

Despite this general agreement, many commentators find Hegel's defence of the constitutional monarch a great weakness in his account of the state, calling it 'arbitrary', 'beset with contradictions', 'bizarre', 'comical', 'implausible', 'obscure', 'troubling', 'unconvincing', 'unusual', 'wide of the mark', and even worse.⁷ Famously, Marx called Hegel's defence of the monarch the place where his 'logical pantheistic mysticism is clearly evident'.⁸ Since Marx's critique, Hegel has normally been criticised for using his speculative logic to justify the necessary existence of a monarch in the just state. Most commentators tend to view Hegel's monarch as not only a strange feature of his *Philosophy of Right*, but as an overly obscure figure of no real importance.⁹ This common perspective is captured well by Michael Hardimon:

Virtually no one today finds Hegel's arguments for [the monarch] to be compelling. However, if one's concern is with the distribution of power in Hegel's political state, as well it might be, *the proper source of worry* is not the monarchy, whose powers are rather restricted, but rather the bureaucracy, the real seat of power in the modern political state as Hegel represents it.¹⁰

As a result, many understand the monarch as an institution worthy of little attention or concern. This view has become increasingly controversial due to more recent commentators who take a contrary position, arguing that there is, in fact, 'nothing paradoxical or confused about Hegel's defense of monarchy'.¹¹ These recent arguments are based on alternative justificatory strategies, rather than those which are explicitly endorsed by Hegel, in an attempt to make his defence seem more plausible to modern readers.

In this chapter, I will argue first that Hegel's justification of the constitutional monarch is established with the use of his logic. I will turn my attention next to the question of whether or not it matters who serves as the monarch. I will then examine the domestic and foreign powers of the monarch. I argue against the virtual consensus of recent interpreters that Hegel's monarch is far more powerful than has been understood previously. In part, Hegel's monarch is perhaps even more powerful than Hegel himself may have realised and I will demonstrate certain inconsistencies with some of his claims. My interpretation represents a distinctive break from the virtual consensus on Hegel's monarch, without endorsing the view that Hegel was a totalitarian.

II HEGEL'S JUSTIFICATION OF THE MONARCH

Hegel justifies monarchy on unique grounds. He does not endorse the classic defence of monarchy, the divine right of kings.¹² Nor does he follow Thomas Hobbes and argue that prudential considerations regarding defence from invasion and individuals in society from one another might justify rule by a single sovereign.¹³ Instead, Hegel establishes his justification in his speculative logic.¹⁴ He is very explicit about this: 'With the organization of the state (which in this case means constitutional monarchy), the one thing which we must bear in mind is the internal necessity of the Idea: *all other considerations are irrelevant*'.¹⁵ Therefore, Hegel's views are the very opposite of Hobbes's position, as prudential and consequentialist considerations are *not* at the heart of Hegel's justification of the monarch.¹⁶ However, this is *not* to say there is an absence of any resulting prudential benefits from having a monarchy. Indeed, we may well discover that there

are such benefits in support of it. Nevertheless, for our purposes here, Hegel's position is simply that nothing other than the Idea's logical development should be brought to bear on the proper organisation of the state, which entails that the state must have a monarch at its head. My intention in this section is to contrast my reading of Hegel's justification of the monarch with competing interpretations in the literature, rather than to make a case that the monarchy as Hegel understood it should be a part of contemporary institutions.

Most commentators on the *Philosophy of Right* find Hegel's justification particularly obscure. Some even go so far as to claim that there is none to be found at all, saying that Hegel's monarch 'simply exists, without the need of further proof to ground his existence'.¹⁷ For these reasons, hardly anyone today finds Hegel's justification of the monarch persuasive and much of its criticism is rather harsh. For example, Dudley Knowles says:

So [Hegel] rolls out a ramshackle constitutional structure, continuously drawing readers' attention to its 'rational' credentials. Thus, to take a comical example, it is not its utility in preventing the formation of conflicting factions which justifies the practice of hereditary succession to the monarchy – such a consideration would demean the majesty of the monarch. Rather it is the fact that the will of the state as expressed in the monarchy is 'simple and therefore an *immediate* individuality [*Einzelheit*], so that the determination of *naturalness* is inherent in its very concept' . . . Marx sees through this self-serving nonsense . . . Even to *endorse* the credentials of a hereditary monarch following free-ranging reflection at a dinner party is to demean the majesty of the institution. Only the speculative method will serve – and it serves up a dish so dreadful that it discredits the method.¹⁸

Indeed, Knowles is far from alone in his dissatisfaction with Hegel's arguments.¹⁹ For example, Herbert Marcuse claims that Hegel is guilty of 'betraying his highest philosophical ideas'.²⁰

I do not believe that the importance of logic in Hegel's justification of the monarch need be itself particularly problematic. As we have seen in Chapter 1, Hegel states quite clearly in his preface to the *Philosophy of Right* that he has 'presupposed' that his readers would have a prior familiarity with his logic (see *PR*, p. 10, §2R). This is hardly surprising: after all, the *Philosophy of Right* was never intended to be read as a freestanding work, independent of Hegel's system of speculative philosophy (see *PR*, pp. 9–10). Hegel presents this philosophical system in his three volume *Encyclopaedia of the Philosophical Sciences*, divided into *Logic*,

Philosophy of Nature, and *Philosophy of Spirit*. Much of his life's work was spent elaborating on different parts of this system and the *Philosophy of Right* is no exception: it is an elaboration of 'objective spirit' in the third volume, the *Philosophy of Spirit*.²¹

Hegel's understanding of logic and its application in his system resists easy characterisation. However, it is not so arcane and complex so as to resist a brief explanation. Hegel's discussion of the structure of rationality is presented in his views on logic and this logic grounds his philosophical system. For Hegel, philosophy is a project concerned with a rationalist understanding of the world. For example, he believes that in order to find the best justification or value of something we must ascertain its 'rationality' (see *SL*, p. 216). Thus, he characterises the *Philosophy of Right* in the following way: 'This treatise, in so far as it deals with political science, shall be nothing other than an attempt to *comprehend and portray the state as an inherently rational entity*' (see *PR*, p. 21). Hegel's logic is brought to bear on his political philosophy in that the logic provides our key to understanding the state 'as an inherently rational entity'.²²

In the *Philosophy of Right*, Hegel's logic makes explicit the immanent development of reason towards 'freedom and truth' as 'the Idea [*Idee*]', that is, the 'unity' of a rational concept [*Begriff*] with its reality (*SL*, p. 587).²³ Hegel fittingly refers to his treatment of the monarch as 'the Idea of the monarch [*die Idee des Monarchen*]' (see *PR*, §281A).²⁴ This treatment is not of any monarch in particular, but only of its rational justification and place within the organisation of the state. For Hegel, this 'Idea' must take shape as universality, particularity, and individuality, as he believes he has demonstrated previously in his logic.²⁵ In this case, the Idea takes shape as a *particular individual* with *universal* powers: the monarch.²⁶ The monarch is thus thought to unify universality, particularity, and individuality.

However, there is more to the justification of the monarch than this – otherwise, it may look like critics, such as Marx, have been correct to say Hegel's monarch is simply an 'incarnation of the Idea'.²⁷ The progressive development of the Idea is, firstly, a development of reason. For Hegel, the monarch is justifiable because its rationality follows necessarily from the previous developments of reason. Hegel is, therefore, able to claim '[t]he monarchical constitution is therefore the constitution of developed reason', as the monarch represents an advance in the progression of reason.²⁸ Such an advance is not made simply with respect to 'reason' alone, as such, but, within the context of the *Philosophy of Right*, the rational development of the freedom of the will.²⁹ This development acquires a certain shape and structure through the course of the *Philosophy of Right* in broad terms, such as the three spheres of 'abstract right', 'morality', and 'ethical life', but

also in the structures internal to these three spheres, such as in the state's separation of powers into 'the power of the sovereign', 'the executive power', and 'the Estates'.³⁰ For Hegel, these divisions of the *Philosophy of Right* embody the structure of freedom in the state, a structure that takes the shape of a constitutional monarchy.³¹ The state constitutes 'freedom in its most concrete shape' when it possesses these structures (PR, §33A).

Likewise, for Hegel, the monarch represents not only an institution justified by logic, but also an institution within logic's rational, developmental structure that helps to best cultivate freedom in the state.³² Hegel claims there are two specific ways in which the monarch does just this.³³ Firstly, the state can be conceived as nothing more than an aggregate of competing interests with the monarch: he alone lends the state an organic unity as an individual 'one'.³⁴ Hegel says:

The mature differentiation or realization of the Idea means, essentially, that this subjectivity should grow to be a real moment, an *actual* existence; and this reality is the individuality of the monarch alone – the subjectivity of abstract and final decision existing in *one* person. (PR, §279)³⁵

There are many important aspects of the state's overall constitution, such as popular representation, that together make up the 'differentiation' of the Idea of the state. Another important aspect is that the monarch must represent *all* citizens, in a way elected representatives cannot.³⁶ Hegel says:

the usual sense in which the term 'popular sovereignty' has begun to be used in recent times is to denote *the opposite of that sovereignty which exists in the monarch*. [As conceived] in this opposition [*in diesem Gegensatz*] [to the sovereignty of the monarch], popular sovereignty is not one of those confused thoughts which are based on a *garbled notion* [*Vorstellung*] of the *people*. *Without* its monarch and that *articulation* of the whole which is necessarily and immediately associated with monarchy, *the people* is a formless mass. (PR, §279R (translation modified))

In other words, Hegel objects to the use of elections in choosing the head of state because it runs counter to his view of the state as organic. Elected leaders are themselves the products of articulated interests where not all interests that exist in the state may be represented equally. Only with a monarch is this equality respected.

In this way, the state may act as 'one' unity, rather than being led by one person who may not have been everyone's choice. For Hegel, subjecting the

head of state to elections entails that whether or not someone is the head of state becomes a matter of 'opinion' and 'arbitrariness' (PR, §281R). On the contrary, the head of state is a necessary part of the rational state and he must be beyond all particular interests of the citizenry. This is not to say that Hegel denies the expression of these particular interests in the state. Indeed, the representation of individual interests is reserved for Hegel's legislative body, the Estates.³⁷ However, it is to say that Hegel's head of state can simply not be any kind of elected official, as some commentators have argued.³⁸

The second way in which the monarch best cultivates freedom within the state is the monarch's 'majesty [*Majestät*]'. Hegel claims the monarch is characterised by its majesty as 'the actual unity of the state' (see PR, §281). The monarch is majestic insofar as he is raised above divisive factions within his state.³⁹ As a result, the monarch alone gives proper expression to the activities of the organic state as the power of 'ultimate decision': the monarch's formal decisions are made not only by a particular person, but they represent the decisions of the state as a single entity. For Hegel, the monarch's formal decisions are themselves characterised by the statement 'I will' (or 'I will not').⁴⁰ It is important that this part of the will be represented in the state as an organic unity because otherwise the state would lack its proper form and, thus, freedom for the citizenry will suffer in his view.⁴¹

Of course, the citizens also suffer if the state fails to decide upon the implementation of particular laws and public policies. Perhaps Hegel's point is in some sense obvious: the state needs someone to declare what the state's positions are, whether it be what the state's planned course of action is in foreign affairs ('our state will now impose trade sanctions with North Korea'), or whether the state will pardon a criminal ('our state will release John Smith from prison tomorrow morning'). For Hegel, not only is there a need for someone to pronounce what the state will (or will not) do; but, in addition, he believes that only someone who represents the state as a whole can best perform this function. Otherwise, what the state 'wills' is an expression of a part of society, rather than all sections of it together.

Finally, we may now wonder just who exactly chooses the monarch. Hegel tells us that who this person is should not itself be particularly important: all that is important is that there, in fact, be a monarch as the head of state.⁴² While a person's character or abilities as such are not primary grounds for choosing who should be monarch, it is essential that this person be selected appropriately. For this reason, we ought not have a variant of elective monarchy, as we have just seen. Here Hegel argues that the monarchy must be hereditary. As we might expect, his claim is grounded in his logic, rather than on any prudential considerations.⁴³

His argument is simple, if still obscure: 'The monarch, therefore, is essentially determined as *this* individual . . . and this individual is definite [*bestimmt*] in an immediate and natural way, i.e. by his *natural birth*' (PR, §280). Thus, the monarchy should be hereditary because as 'this' person (as opposed to his being someone else) he is who he is 'by his natural birth' in the lottery of nature, rather than through elections. For Hegel, this is not particularly problematic as he says anyone could be a monarch, as 'the particular character of [the monarch] is of no significance' (PR, §280A).

In the end, we may remain unpersuaded by Hegel's justification of the monarch. It should now be clear that, for Hegel, the *logical*, rather than consequentialist or prudential, relevance of certain institutions, including monarchy, serves as our *primary* guide to discerning the rationality of our institutions, such as constitutional monarchy.⁴⁴ Interpretations of Hegel's justification of monarchy that fail to acknowledge the central role of his speculative logic misrepresent his clearly stated justification. If we do not take seriously Hegel's use of his logic, then we cannot seriously approach his justification of monarchy either – however implausible this justification may, in fact, turn out to be. Perhaps we would be more greatly persuaded by an appeal to prudence, rather than speculative logic, as some have maintained.⁴⁵ Indeed, Hegel does not deny that certain institutions, not least monarchy, are prudentially desirable as well as logically necessary, as I have tried to illustrate in this section.

III DOES IT MATTER WHO IS THE MONARCH?

For Hegel, rational necessity justifies the existence of a hereditary monarch. While the manner of its justification is highly controversial, there is near unanimity amongst interpreters that who is the monarch is of little real significance.⁴⁶ This view is readily supported by Hegel's own remarks on the monarch's powers. He says:

In a fully organized state . . . all that is required in a monarch is someone to say 'yes' and to dot the 'i'; for the supreme office should be such that the particular character of its occupant is of no significance . . . In a well-ordered monarchy, the objective aspect is solely the concern of the law, to which the monarch merely has to add his subjective 'I will'. (PR, §280A)⁴⁷

Such remarks have contributed to the common view that Hegel's monarch is essentially a rubber stamp divested of any real power. In fact, Bernard Yack even claims that all Hegel's monarch need do is 'take the trouble to be

born' as 'anyone could do the job'.⁴⁸ The monarch is thus both an essential feature of the state – otherwise the 'i' goes without being dotted – but it is also 'ultimately trivial'.⁴⁹

In turn, this has led some to compare positively Hegel's monarch with contemporary views of the monarch, such as the one found in Britain. For example, Findlay states:

[Hegel's] views of the Monarch's functions . . . are, in fact, in accord with modern British constitutional practice. The Monarch is merely the necessary apex of the State-structure, and as such he is merely someone who dots the *i*'s, and whose individual character is not of great importance.⁵⁰

The modern reception of Hegel's monarch is to treat it as a minor aberration, whose justification is obscure, whose existence is clearly endorsed, and whose power is negligible.

I will examine the powers Hegel ascribes to the monarch in domestic and foreign affairs in the following two sections. However, in *this* section, I will address the preliminary issue of whether it matters who is the monarch. As we have just seen above, Hegel's answer seems explicit, as he says: 'the particular character of [the monarch] is of no significance' (PR, §280A). Yet, I believe there are several reasons to believe that Hegel cannot hold this position consistently.

Firstly, he does find a person's gender to be of great significance. He says:

Women may well be educated, but they are not made for the higher sciences, for philosophy and certain artistic productions which require a universal element . . . When women are in charge of government, the state is in danger, for their actions are based not on the demands of universality but on contingent inclination and opinion. (PR, §166A)

Thus, only men should participate in the affairs of state: women are instead best suited for home life.⁵¹ As a result, Hegel's use of 'monarch [*Monarch*]', or 'princely power [*die fürstliche Gewalt*]', in the organised state is synonymous only with 'king' or 'prince' and not with 'queen' or 'princess'. Hegel's conception of the most just state cannot have a woman as its monarch.⁵² Still, we might reject Hegel's attributing rationality as a characteristic of men alone. We could say that he ought to have extended this to women as well. In such a case, we must then acknowledge that while a person's particular character does, in fact, matter on the issue of gender for Hegel, we might also say this should not have mattered for him.

Secondly, it is important that the monarch understand why he makes the decisions he does for the following reasons. For one thing, as we saw above, only the monarch has absolute powers of decision. This power of the monarch is usually considered to be unproblematic, as the monarch here does no more than simply be the individual who formally makes decisions on behalf of the state that were essentially decided by various other institutional bodies administering the state's activities.⁵³ Therefore, Findlay argues: 'The functions of the Monarch in the State is simply *to take the last decisions*. . . . The monarchical majesty resides, further, in the complete *groundlessness* of these last decisions'.⁵⁴ Indeed, we can find Hegel explicitly supporting this reading: 'Yet with firmly established laws, and a settled organization of the State, what is left to the sole arbitrament of the monarch is, *in point of substance*, no great matter' (*PH*, p. 456).

One problem with this view is that it presupposes that the monarch will understand not only the rational necessity of the monarchy, but its proper function in the state. As we have seen, the monarch is responsible for dotting i's and making formal state decisions. Hegel does not argue that the monarch can make state decisions arbitrarily. For example, he says:

But it is more difficult to grasp this 'I will' as a person, for this [formula] does not imply that the monarch may act arbitrarily: on the contrary, he is bound by the concrete content of the advice he receives, and if the constitution is firmly established, he often has nothing more to do than to sign his name. But this name is important. (*PR*, §279A)

Other interpreters have also been aware of this limit. Peter Steinberger says: 'The freedom of the monarch . . . requires that he be bound and limited by that which reason prescribes; and it seems certain that reason prescribes actions aimed at promoting the good health of the organism as a whole'.⁵⁵

The second reason it is important that the monarch understand why he makes the decisions he does is because it would appear that hereditary monarchy might violate a more general principle deduced from his logic: the right of all individuals to possess *subjective freedom*. For Hegel, subjective freedom is the freedom of individuals to make decisions for themselves, such as their career, and it must not be threatened by the state.⁵⁶ In fact, Hegel says:

In Plato's republic, subjective freedom is not yet recognised, because individuals still have their tasks assigned to them by the authorities [*Obrigkeit*]. In many oriental states, this assignment is governed by birth.

But subjective freedom, which must be respected, requires freedom of choice on the part of individuals. (PR, §262A)

Thus, the potential problem is that the monarch substantively lacks subjective freedom insofar as his main occupation is chosen for him as an hereditary office: he lacks the freedom to make this decision for himself, as it is naturally determined for him instead.

Perhaps Hegel's rejoinder is to say:

The right of the subjective will is that whatever it is to recognize as valid should be perceived by it as good, and that it should be held responsible for an action . . . as right or wrong, good or evil, legal or illegal, according to its cognizance [*Kenntnis*] of the value which that action has in this objectivity. (PR, §132)⁵⁷

Hegel may remark that while it is true that the title of monarch is chosen for the natural heir, this heir will freely choose to accept being monarch if he is able to recognise the rational necessity of the monarch's office. That is, while on the one hand, the heir inherits the monarchy and appears to have little choice in the matter, it is also true, on the other hand, that the heir would freely choose to become monarch if he can recognise its rational necessity. Indeed, the monarch cannot choose to abdicate the throne, but must inherit it.⁵⁸

It is most important to note that in order for the heir to make this choice as an act of subjective freedom, he must understand the choice he is making: subjective freedom is not the liberty to simply do whatever one pleases. Thus, Hegel's institution of hereditary monarchy runs the risk of violating the right of subjective freedom unless the heir to the throne can understand the rational necessity of the monarchy. If he can do this, then he will understand that his subjective freedom is best expressed in his choosing to inherit the monarchy.⁵⁹ *Who* the monarch is then *matters* insofar as it is essential he understands why he must inherit the throne or risk failing to attain his own subjective freedom.⁶⁰

As a result, we see again that the personal character of the monarch is far from unimportant for Hegel. Not only must the monarch be male (on grounds we have reason to reject), but the monarch must be able to grasp both the rational necessity of the monarchy, in addition to the necessity of the monarch for the proper organisation of the state. This is particularly crucial for states in the process of adopting Hegel's hereditary monarchy. As Pelczynski is right to say: 'The difference between a limited and an unlimited government, between a constitutional and an authoritarian

monarchy, is the difference between ruling within a rational framework and striving to establish it first'.⁶¹ Here the authoritarian monarch must be in a position to know when the time has come to limit his own powers and devolve power to other institutions in an organic state.⁶² He must perform this task perhaps without the benefit of a cabinet, as the latter is a characteristic of constitutional, not authoritarian, monarchy. Again, who the monarch is, in fact, does matter – despite Hegel's suggestions to the contrary.

IV THE DOMESTIC POWERS OF THE MONARCH

Is the monarch essentially a powerless, rubber stamp as virtually all contemporary interpreters claim? To begin with, Hegel is perhaps surprisingly critical of rubber stamp monarchs. For example, he says: 'In England the king is this ultimate apex too, but the constitution as a whole reduces him virtually to a cipher. Since 1692 there has never been a case of the king's vetoing a parliamentary decree . . . this inner unity of the concept must also be actualized'.⁶³ Hegel's position here is not that monarchs actively ought to veto legislation; but, rather, that the monarch should have some meaningful involvement in the affairs of state.⁶⁴ Yet, it may seem that Hegel's criticism is misplaced, for as we have just seen, he also argues that the organised state requires no more of the monarch beyond 'someone to say "yes" and to dot the "i"; for the supreme office should be such that the particular character of its occupant is of no significance' (PR, §280A).

There can be no doubt that Hegel's monarch is not fascist nor totalitarian.⁶⁵ However, I believe the monarch is far more powerful than commonly recognised. It is true that the monarch does not choose formal state decisions purely at his own discretion. Instead, these decisions are made by the monarch with the aid of his cabinet [*Ministerium*]. Hegel refers to the monarch with his cabinet as 'the power of the sovereign [*die fürstliche Gewalt*]'.⁶⁶ The cabinet is designed to moderate the effect of the monarch's particular dispositions on the business of the state. It plays an important role in Hegel's state as without moderation the monarch might threaten the rationality of the state through improper state decision-making (see LNR, §§140, R). Rather than make decisions based upon his own personal assessment of what rationality demands as such, the monarch is instead advised on such matters by his cabinet (LNR, §140R).⁶⁷

As discussed in the previous section, I believe the monarch must possess a certain character, namely, the ability to recognise rational necessity. The importance of the monarch's cabinet is that it may help to ensure the monarch chooses wisely. Indeed, it is too often overlooked by interpreters

how important the decisions are that the monarch and his cabinet must make in the domestic sphere. Firstly, the monarch and his cabinet propose all pieces of legislation to be approved by the legislature.⁶⁸ The legislature does not propose legislative bills.⁶⁹ It is important to note that neither the monarch – nor any member of his cabinet – propose legislation on their own either. Instead, whatever legislation the monarch chooses to endorse can only be brought to the legislature for consideration if, and only if, ‘the competent minister’ in the cabinet consents to his doing so (see *LNR*, §140). Hegel says:

Since it is the ministers who are answerable for the power of the sovereign, there can be no action by the ruler determined in a merely personal manner (e.g., by the monarch’s subjective environment, namely the court); his every decision must be signed by the competent ministers. (*LNR*, §140)

On the one hand, this passage makes clear the limited powers of the monarch. He cannot make any decision without the prior approval of the responsible member of his cabinet. However, on the other hand, the monarch cannot be held accountable himself and removed from office (see *LNR*, §139). Nor is it possible for him to more or less rule as he likes provided he takes the extra effort of frequently replacing his cabinet ministers, thus finding someone who will sign onto his decisions. The monarch may not simply choose anyone, say, his friends, for example. Rather the monarch may only select ministers from a given pool of qualified applicants.⁷⁰ Ideally, all potential cabinet ministers would offer the same general advice.

Unlike the monarch, who is answerable to no one, members of his cabinet must answer to the legislature.⁷¹ It is thought that cabinet ministers can be best held accountable for the advice they offer to the monarch if they debate openly proposals approved by the monarch and themselves (see *PR*, §284).⁷² Furthermore, Hegel claims it is the duty of the legislature to question cabinet ministers in public on state matters (see *PR*, §315A). His reason is that he thinks questioning ministers will serve as a sufficient check on the powers of both the executive and the sovereign (*LNR*, §149R). In addition, such debates provide the public with ‘a great spectacle of outstanding educational value to the citizens’ in matters of the state (*PR*, §315A).⁷³ The monarch and his ministers cannot always guarantee success with the legislation they propose. However, only they can choose what might – and also what might not – become the state’s laws.

A second important responsibility of the monarch is the pardoning of

any criminals.⁷⁴ Here Hegel notes that the courts will often make recommendations to the monarch as to which criminals should be pardoned (see *LNR*, §139). However, only the monarch may pardon criminals, as long as he gains the consent of the relevant minister. There are no limitations on who or how many can be pardoned provided there is ministerial consent.⁷⁵ What is distinctly different about granting pardons from proposing legislation is that the monarch only needs the consent of the relevant minister: the monarch does not need the approval of the legislature. Of course, the monarch cannot pardon whomever he pleases as the responsible cabinet minister might object to inappropriate pardons, but his say remains significant for any decisions.

How this might be so requires us briefly to look at how the monarch is thought to properly act as a check on his cabinet. One way in which Hegel's monarch exercises control over the advice he receives is by holding the members of his cabinet responsible for their advice (see *PR*, §295).⁷⁶ He does this through his right to select and dismiss cabinet members at his discretion.⁷⁷ Of course, the cabinet plays an important role in matters of state and, thus, it is important that the best persons are chosen. Yet, who is chosen – and who is overlooked – for cabinet membership is a matter of some discretion for the monarch, within certain limits.⁷⁸ Moreover, the role of cabinet ministers is only to advise the monarch on matters of state, grant consent to his decisions when appropriate, and debate proposals in the legislature. They cannot make any executive decisions on their own.

In addition, cabinet ministers are far from equal partners with the monarch, as ministers can be dismissed at the monarch's discretion. The only check ministers have – their right to refuse consent to the monarch's executive decisions – is particularly weak as the monarch has the potential ability to dismiss uncooperative ministers and replace them with persons more favourable to his own policy preferences. We can now see the relevance of this for the monarch's ability to pardon. If the legislature need not be consulted and the monarch need only gain the consent of the relevant minister who he can replace at will, it seems possible for the monarch to replace ministers until they agree with what the monarch wants. The monarch's ability to pardon is thus a much greater power than it might appear at first blush.

Moreover, the monarch has the right to intervene in any instances where executive officials abuse their position (see *PR*, §§295, R). As with pardons, the monarch need only gain the consent of the relevant minister, whom he can replace at will. The legislature need not be consulted. This right of the monarch is perhaps more worrisome than his right to pardon, as it allows him to have significant control over who makes up the executive branch. In

addition, the monarch exerts absolute control on who is allowed to serve at the very top of the executive branch, his cabinet.

It is worth noting that the monarch's ability to select ministers is an important check on ministers. Hegel tells us that the potential ministers a monarch has to choose from a pool of candidates will each satisfy some minimum degree of competency. The only possible check on the ability of bureaucrats to successfully educate potential ministers for political office is the monarch through his ability to appoint and remove ministers at will.

Finally, it is important to note that Hegel's monarch differs rather dramatically from contemporary monarchs. For example, Queen Elizabeth II must sign laws in order for them to be enacted and appoints ministers to Her Majesty's Cabinet. However, when the Queen agrees to laws, it is the *end* of the process. On the contrary, when Hegel's monarch agrees to a law, it is the *beginning* of the legislative process as bills are sent then to the legislature afterwards for ratification. Furthermore, the cabinet, for Hegel, is elected by only one person – the monarch. The Queen has no substantive say in who might serve as ministers: she does not appoint ministers until the Prime Minister informs her who will serve as ministers. For Hegel, the decision on who should serve is taken by the monarch, not the people nor anyone else. I would not wish here to defend Hegel's justification of his monarch, only to point out yet again here how the person of the monarch is not without consequence for the state and most certainly more powerful than the Queen, despite much commentary to the contrary.

It should be clear that Hegel's monarch is far from a rubber stamp divested of any real power in domestic affairs. He is not only beyond censure and unimpeachable, but the monarch alone selects members of the cabinet. In consultation with his cabinet, the monarch proposes all legislation for the state, pardons certain criminals, and intervenes in cases where executive officials abuse their office. In order for the monarch to be bound 'by that which reason prescribes', he must surely have some understanding of what reason prescribes. Moreover, this knowledge must play some role in the monarch's freely given consent to accept his inherited position: otherwise he would lack subjective freedom which is a right of all individuals in the state. In addition, if the monarch is to hold his cabinet members responsible, he must be able to vet potential candidates for cabinet positions as well as the quality of the advice he is given. The state will fail to be fully rational should he be mistaken on who should serve in the cabinet or how the state should govern in light of the counsel he receives. Finally, the monarch's particular characteristics are far from irrelevant, despite Hegel's occasional assertions to the contrary. Thus, the monarch's choices *matter* across a number of substantive areas, a position very different from the view

of him as a rubber stamp suggested by traditional interpretations. Indeed, the fact that the monarch is *not* a rubber stamp may well explain why Hegel discusses the monarch's role in the state more than we might normally expect.

V THE MONARCH'S ROLE IN FOREIGN AFFAIRS

The powers of the monarch in foreign affairs have been almost entirely overlooked by interpreters.⁷⁹ Most interpreters deal with the monarch's role in foreign affairs only in passing.⁸⁰ Indeed, most of the discussion of Hegel's theory of international relations hardly mentions the role of the monarch at all.⁸¹

Perhaps the primary reason for taking little notice of the monarch here is due to the traditional interpretation that claims that he is a trivial player in foreign affairs. As we saw above, most interpreters view the monarch as an insignificant rubber stamp. Thus, Steven Smith argues that we 'need not expect the monarch to be a wise man'.⁸² Instead, the monarch's cabinet will take care of all matters of the state with due care. This position is not dissimilar to Raymond Plant either, who says that '[t]he monarch does not himself formulate the policy of the state'.⁸³ These generally representative views hold that the monarch may, as stated by Pelczynski, 'more or less withdraw from active political life and leave the day-to-day conduct of government to a chancellor or Cabinet'.⁸⁴

I believe that interpreters have misunderstood fundamentally the monarch's significant powers in foreign affairs, in addition to his powers in domestic affairs. For Hegel, the monarch and his cabinet represent the state in all matters of foreign relations.⁸⁵ He says:

The outward orientation of the state derives from the fact that it is an individual subject. Its relationship with other states therefore comes under the power of the [monarch and his cabinet], who therefore has direct and sole responsibility for the command of the armed forces, for the conduct of relations with other states through ambassadors, etc., and for making war and peace, and [entering into] concluding treaties of other kinds [*und andere Traktate zu schließen*]. (PR, §329 (translation modified))

The monarch and his cabinet as 'the power of the sovereign [*die fürstliche Gewalt*]' represent the state because, for Hegel, states relate to one another as independent, individual subjects (see PR, §§329, 331). Thus, Hegel holds a classic realist view of international relations.⁸⁶

One consequence of Hegel's realism is that he does not believe that states can be bound by international law. Instead, such laws and treaties can be agreed to or withdrawn from at will (see PR, §333). As a result, states find

themselves in varying degrees of conflict without a supreme authority to resolve any disputes (see *PR*, §§333R, 339R). Where disputes arise, states may only be able to settle their differences through war.⁸⁷ While Hegel certainly does not celebrate war, neither does he view it as something that states should avoid at all costs.⁸⁸ In fact, he argues against perpetual peace amongst states and claims that states benefit from occasionally entering into war with other states: ‘Wars are like winds upon the sea; without them the water would become foul, and so it is with the state’ (*LNR*, §160R). Hegel says further: ‘Not only do peoples emerge from wars with added strength, but nations [*Nationen*] troubled by civil dissension gain internal peace as a result of wars with their external enemies’ (*PR*, §324A). In war, the state tries to prevent its citizens from focusing exclusively on their individual well-being.⁸⁹ Thus, states become stagnant without occasionally entering into war, as war reminds citizens of their membership of the state.

It is important to note that if the monarch and his cabinet alone decide matters of international affairs, they alone decide whether or not the state should enter into war. The usual check on the sovereign power’s actions – the public debates between cabinet ministers and the legislature – is lacking in all these instances. This is because all decisions of foreign affairs do not require any legislative authority, unlike many decisions of domestic affairs which do. Instead, the legislature can do no more than approve funds for use in war, as only the legislative branch of government has the power to collect tax and endorse its spending (see *LNR*, §§157, R). If the monarch were wealthy enough to finance a war that the legislature was unwilling to fund, a state may still go to war despite the legislature’s refusal to fund it.⁹⁰

In addition, as we saw above, the usual check on the monarch’s power is his need for a signature from the responsible cabinet member on all relevant acts taken on behalf of the state. Yet, if the relevant minister refused to support the monarch, the monarch could simply remove the minister and replace him with another at the monarch’s discretion until he finds someone more willing to support military action.⁹¹ Thus, what checks there are on the monarch’s powers to wage war appear to be somewhat weak. This is equally true with the drafting of treaties between the monarch’s state and another: these decisions are made by the monarch with the signature of the responsible cabinet member, whom the monarch can replace at will. As a result, the monarch’s powers to enter the state into treaties or war are relatively unchecked beyond the need to gain the responsible cabinet member’s signature and inability to levy taxes without approval from the legislature.

Perhaps even more worrisome for modern readers are the consequences of military action. Of course, innocent people on both sides will suffer in

some way from war and neither side may gain in any identifiable way. These conflicts may be also unpopular (see *PR*, §329A).⁹² In addition, Hegel says that '[o]nly in the case of danger to the state may it be necessary to transfer more power to a single individual [i.e., the monarch], but never in peacetime' (*LNR*, §143R).⁹³ Thus, the monarch's powers in foreign affairs appear both great and relatively unchecked. Moreover, in pursuing military conflict, the monarch may justify the temporary expansion of his powers. As before, it is again hard to reconcile this view with his oft-cited passages where he claims that the personality of the monarch 'makes no difference' and 'has no influence' (*LNR*, §143R). On the contrary, who the monarch is and how he exercises judgements on behalf of the state seem to be of significant importance.

Despite the fact that a monarch *can* pursue whatever course of state action in world affairs he might like, Hegel does not believe a monarch *ought* to pursue whatever actions take his fancy. Indeed, the relations between states should not be arbitrary. One of the reasons Hegel believes the sovereign power should make decisions relating to war and peace is because it is most likely to pursue rational ends, rather than its particular passions. He says:

But if it is imagined that sovereign princes [*Fürsten*] and cabinets are more subject to passion than parliaments are, and if the attempt is accordingly made to transfer responsibility for war and peace into the hands of the latter, it must be replied that whole nations are often more prone to enthusiasms and subject to passion than their rulers are. (*PR*, §329A)

In fact, Hegel criticises England for deciding matters of war and peace in its Parliament. He claims that popular decisions to go to war in England's past were later found to be 'useless and unnecessary' and decided upon 'without calculating the cost' (*PR*, §329A). Popular sentiment is a poor guide to what a state should do and 'the complexities' of international relations become 'so delicate' that an unelected body guided by reason, rather than public passions, is best suited for making judgements in foreign affairs (see *PR*, §329A).

It should be clear that we cannot discuss Hegel's views of international relations without noting the powerful presence of the monarch. Here the monarch's discretion is greater than in domestic affairs as both his decisions and the advice of his cabinet do not face any scrutiny. Even more, who the monarch is matters as not only are all state decisions in foreign affairs his ultimate judgement, but when the state enters into military conflict his overall powers increase. The picture that Hegel paints of the monarch is not that of a totalitarian leader, as the monarch ought not pursue policies that do not accord with the state's true interests. Indeed, if the monarch were to

act in this way, this will become evident in Hegel's view should the state should fail or be conquered. Furthermore, we may well not be entirely convinced as modern readers that the monarch should have the powers that Hegel ascribes to him. Nevertheless, it is clear that Hegel's constitutional monarch is not a relatively powerless rubber stamp.

VI CONCLUSION

As we have seen above, Hegel famously says:

In a fully organised state . . . all that is required in a monarch is someone to say 'yes' and to dot the 'i'; for the supreme office should be such that the particular character of its occupant is of no significance. Whatever other qualities the monarch has in addition to his role of ultimate decision belong to [the sphere of] particularity [*Partikularität*], which must not be allowed to affect the issue. (PR, §280A)

My contention here is that this oft-cited statement of the monarch is inconsistent with Hegel's overall view of the monarch. The particular character of the monarch is of great significance. Not only must the monarch be male, but he must recognise the rationality of his inheriting the throne. In addition, his good judgement is crucial in vetting potential cabinet members as well as their advice. The monarch's judgements are nowhere more important than in foreign affairs where he decides matters of war and peace alone with his relevant cabinet minister whom he personally selects. Indeed, if '[i]n its institutions the state must be a temple of reason', then the monarch's rational decision-making is one necessary part.⁹⁴

Terry Pinkard says:

One of the problems involved in doing the history of philosophy is reinterpreting past philosophers in such a way that the relevance of their work to contemporary discussion can become clear. In doing so one often finds that certain doctrines to which a philosopher himself attached great significance may not be central to a particular line of his argument.⁹⁵

It is most often thought by interpreters that Hegel's monarch is a relatively unimportant feature of his theory of the state. On the contrary, I have demonstrated that, in his own terms, Hegel is right to give the monarch the significance he does and that, in turn, this significance is far greater than has been recognised. The constitutional monarch is a necessary part of Hegel's rational state that is simply too powerful for interpreters to continue to overlook or discount. He is anything but a rubber stamp.

CHAPTER 8

Democracy

I INTRODUCTION

Democracy presents an interesting dilemma for contemporary political philosophers. Many of the most historically important political philosophers were either dismissive, if not outright hostile, to democracy as a superior form of governance. For example, neither Plato, Aristotle, Augustine, Aquinas, Machiavelli, Hobbes, Kant, Hegel, and Nietzsche, nor any number of other major figures defended democracy as the superior form of government. Each often prefers various incarnations of monarchical governments instead.

The anti-democratic position held by these canonical writers is clearly at odds with the position of contemporary political philosophers. Today, seemingly everyone everywhere makes some claim to popular legitimacy.¹ Elected politicians claim that their election gives them a political mandate, as well as political legitimacy. Authoritarian politicians claim that they make decisions in the people's best interest, only maintaining their rule until the people can govern for themselves. Thus, at least in popular discourse, even authoritarians espouse that their legitimacy rests on some form of popular mandate too. Indeed, hardly any leader claims that he or she acts contrary to popular legitimacy.

The dilemma posed here is a simple one: if much of our philosophical canon is anti-democratic, how can these major figures have gotten it all so terribly wrong? Of what use are these figures in helping us formulate a theory of good governance today? The standard reply by democratic theorists is that these figures help to support the case for democracy in a negative way. Canonical philosophical figures like Hegel are thought to get democracy wrong, and in such a way that it helps to highlight the case *for* democracy and not *against* it. They offer us illuminating examples of why opposition to democracy should fail.

In this chapter, I will adopt a very different approach to this issue. I will

focus on Hegel's *positive* contribution to democratic theory. First, I will look at what his arguments were against democracy, as well as their substantive claims in support of what he took to be superior alternative forms of governance. Secondly, I will examine how he understood the public as a check on the political power of elites in his mature philosophical writings. The chapter ends with a consideration of whether the outlines of his mature political vision sketched here is defensible against some possible objections. My view is that Hegel is *not* an enemy of modern democratic thought after all and his work is extremely illuminating for helping us develop democratic theory in a *positive*, rather than merely negative, manner. Hegel need not continue to be perceived as either a foe or a foil of the modern democrat any longer.

II HEGEL'S ALTERNATIVE

Hegel does not appear to endorse democracy in any obvious sense. In his well-known *The Open Society and its Enemies*, Karl Popper singles out Hegel in particular as a father of modern totalitarianism, claiming that he is 'an apologist for Prussian absolutism'.² Moreover, Bertrand Russell likewise argues 'such is Hegel's doctrine of the State – a doctrine which, if accepted, justifies every internal tyranny and every external aggression that can possibly be imagined'.³ While most scholars today would deny that Hegel's political views are totalitarian, this has not prevented any number of commentators from taking strong issue with his views.⁴ These have been called 'arbitrary', 'beset with contradictions', 'bizarre', 'comical', 'implausible', 'obscure', 'troubling', 'unconvincing', 'unusual', 'wide of the mark', and much worse.⁵

Not only does Hegel seem an unlikely friend of democratic theorists, then, but his political vision has been routinely subjected to severe criticisms primarily because his views are not democratic, or at least not in any obvious sense. For example, Hegel does not endorse a system of governance that is recognisably democratic. Instead, he defends an hereditary monarch who proposes laws with the consent of his cabinet to an elected assembly, the Estates (PR, §273, R).⁶ While Hegel also allows elections to political office, the majority share of power rests with the monarch and his cabinet ministers. He defends a system of government that both tries to incorporate elections for important political institutions while having 'lost [its] democratic . . . character', lacking any close resemblance to a modern democracy, again, at least in any obvious sense (PR, §273R).

We might well think it a tall order to suppose that Hegel could actually help us theorise about democracy in a *positive* way. Instead, we might expect to view any value he might offer to democratic theorists in a generally

negative light overall. For example, many commentators take up Hegel's theories of freedom, recognition and reconciliation, and claim that he sets popular political participation in a too limited role where these theories cannot properly develop and take hold. Hegel negatively furthers the cause of democratic theorists, for instance, because this problem highlights the need to extend recognition and reconciliation much further in our political practices than Hegel's constitutional monarchy allows. Hegel is a negative teacher; his views offer a useful foil for use by democratic theorists to show us why democracy is the best form of government and how it can be further improved through Hegel's misplaced and incorrect criticisms of democracy. Or so it has been argued.

III HEGEL'S ARGUMENTS AGAINST DEMOCRACY

It is important to first recognise Hegel's target when he criticises democracy. This target is clearly Athenian democracy and *not* liberal democracy.⁷ One implication is that many of Hegel's criticisms of *Athenian* democracy are unsuccessful against *liberal* democracy. In this section, I will examine four different arguments put forward by Hegel against democracy. These arguments are:

- (1) democracies are actually anarchic societies that lack any kind of coherent unity;
- (2) democracies are more likely to follow their citizens' impulses and desires, rather than any concern for the common good;
- (3) larger democracies fail to permit sufficient voice for their citizens, offering disincentives to citizens to participate; and
- (4) democracies are essentially governments run by fools: it would be best to have those with expertise in statecraft take command, as the citizens are unable to govern well because they simply do not know what they are doing.

I will now examine each of these arguments in turn. My purpose will be to demonstrate both that Hegel offers these four arguments against democracy, but also to explain how modern liberal democracy can accommodate their worries.

(A) *The first argument against democracy*

Hegel's first criticism of democracies is that they are characterised by anarchy. For example, the classic illustration is Plato's attack on democratic

governments for being essentially libertarian societies where each citizen can ‘arrange his own life in whatever manner pleases him’: ‘anarchy’ is mistaken as ‘freedom’.⁸ The potential share and scope of power held and exercised by each citizen is much greater than that held by democratic citizens today. But it is also not without its own problems. Similarly, Hegel notes that the rights of each citizen are insecure in democracies because not everyone might respect the rights of others.⁹ The thought is that if people can live however they please, then they may choose a form of life that imposes restrictions on someone else’s well being. This gives us reason to reject democracies as an attractive form of political organisation. But recall this is an argument against *Athenian* democracy where equal concern and respect for all members is lacking – and unlike the political ideals that underpin most liberal democracies today. So this argument may have force against Athenian democracy, but it does not clearly succeed against all democracies.

Hegel’s second criticism is that democracies lack any kind of unity on account of their being anarchic societies for two reasons. First, democracies lack political structure. Democracies are more akin to a collection of individuals occupying a common space, rather than a form of political organisation. For example, Hegel refers to democracies as fragmented societies, where people form ‘merely an aggregate, a collection of scattered atoms’ (PR, §290A).¹⁰ Hegel argues that ‘[t]o speak of “the people” is a completely empty phrase’ as a result (LNR, §148R). He explains:

The many as single individuals – and this is a favourite interpretation of [the term] ‘the people’ – do indeed live *together*, but only as a *crowd*, i.e., a formless mass whose movement and activity can consequently only be elemental, irrational, barbarous, and terrifying. If we hear any further talk of ‘the people’ as an unorganized whole, we know in advance that we can expect only generalities and one-sided determinations. (PR, §303R)

Hegel’s view is that to speak of ‘the people’ is to speak of something that has some coherent form with some identifiable shape.¹¹ Democracies are not coherent political bodies, but literally a form of mob rule.

Secondly, Hegel accuses democracies of lacking leadership. If everyone rules and everyone has an equal political voice, then no one can speak for anyone else nor for the community as a whole as well. In a society where all are equal, that society, in effect, ‘lacks rulers’.¹² Hegel argues:

In democracy all powers merge together in immediate fashion, the people being the supreme lawgiver and the supreme judge. An individual, e.g., a

general, is still needed for execution, but the power is not definitely transferred to him, and he does not know how far he can go. The people lack stability, and with them no laws are firm. (LNR, §135R)

Hegel's claim is simple: who carries out the decisions that the so-called 'people' decide? If a democracy votes to end poverty in its midst, then who has a mandate to carry this out? What rights and obligations are extended to such a person? Democracy is alone in leaving such questions open and, worse, leaving their answers arbitrary.¹³

Hegel proposes a form of government in response to these criticisms that is not anarchical and with a clear political decision-making structure in place. This is to ensure that the community avoids slipping into anarchy and helps to foster a coherent political unity. Hegel believes unity is best sought out by abandoning democracy's 'contingent character' and differentiating itself into various internal structures, such as a government, courts of law, public authorities, and so on (see LNR, §§129R, 130R). This structure must contain not only various branches of public institutions, but these institutions must have a coherent relationship with one another along a clear hierarchy. The pinnacle of the state is the monarch (PR, §279R). For Hegel, the monarch solves a number of important problems relating to the questions of who enacts laws that have been agreed upon or who can speak on behalf of the state: these are some of the monarch's varied roles.¹⁴ Therefore, anarchy is averted and unity is secured. We may then move beyond the troubled notion of 'popular sovereignty . . . based on a *garbled* notion [*Vorstellung*] of the *people*' given our recognition of clear political structures and their organisation (PR, §279R).

Hegel's claims may appear to *prima facie* miss their target. It is certainly not obvious in which respects, if any, modern democracies are more 'aggregates' rather than unified societies. Perhaps modern liberal democracies are more aggregative – that is, perhaps they give a certain priority to individual rights above any variety of group rights¹⁵ – than Hegel would prefer, but there is an identifiable unity present nonetheless. We have clear institutional structures, as well as political leaders, such as generals, prime ministers, presidents, and the like, in our modern democracies and, indeed, they do know their remits, duties, and obligations as set out in public laws.

Hegel's criticisms of Athenian democracy do not appear to extend to modern liberal democracies today. This is because, unlike Athenian democracies, liberal democracies can address these concerns. We satisfy Hegel's general worries about democracy because, well, we are not that kind of democracy after all. In fact, we actually come much closer to

addressing their concerns than either he or perhaps even ourselves might have imagined.

(B) *The second argument against democracy*

A second argument against democracies is that they are more likely to follow their citizens' impulses and desires, rather than be driven by any concern for the common good of all. If democracies are essentially anarchic societies, then each person is free to choose whatever ends he or she wants for the community and his- or herself. Not only might these choices clash, but the problem is that all will be disposed to think of themselves ahead of others. The common good will become lost in the free pursuit of individual desires (PR, §§281R, 301R). Moreover, these individuals are pursuing their passions rather than reason because the latter is inapplicable: the citizenry does not know how to rule and, therefore, they cannot have reason as their guide (PR, §273R). Elected officials are little more than 'servants' dedicated to the satisfaction of 'the city's appetites'.¹⁶

Hegel argues that democracies are governed by 'the sense of the *caprice*, opinion, and arbitrariness of the *many*', often identifying 'caprice' as a characteristic of 'democracies' (PR, §281R).¹⁷ So Hegel believes democratic states are characterised by 'subjective opinion and the self-confidence which accompanies it' (PR, §310R).

Hegel's solution to this problem is to constrain popular participation in politics. This would create a space for those with some particular expertise in governance to guide political decision-making. The argument is that those who know best how to govern are most able to detect the common good of the community and enable its pursuit. Thus, in Hegel's words, the state can 'be regarded as a great architectonic edifice, a hieroglyph of reason which becomes manifest in actuality' (PR, §279A).

It is worth pointing out that liberal democracy takes stock of Hegel's concerns again here. As Joseph Schumpeter notes, democracy is not 'rule of the people'; but, instead, '[d]emocracy means only that the people have the opportunity of accepting or refusing the men who are to rule them . . . this may be expressed by saying that democracy is the rule of the politician'.¹⁸ The masses do not directly vote for anything or anyone other than those who govern them, save in the occasional referenda. We limit access to participation in such a way that all the vicariousness that exists in the greater society is put under some control. In addition, our elected political leaders cannot work alone, but must often work among themselves and compromise with one another. They cannot be moved solely by whatever whim takes their fancy, and they have the opportunity to reflect rationally

upon potential policy options before deciding on any course of action. This is not to say our politicians always make the best judgements or that democracy today lacks a need for development. Instead, my point here is only that it can actually accommodate Hegel's second criticism in a positive manner.

(C) *The third argument against democracy*

Hegel poses a third, more specific, objection to democracy. This is that larger democracies fail to permit sufficient voice for their citizens. The thought here is that in large democracies, 'democracy' as such, is essentially meaningless (PR, §311R). This is because the so-called 'voice' each person has is potentially minute. For example, my vote is worth far more in decisions involving three or maybe a dozen people, than in a polity of 300 million people. My stake in political decision-making, my 'voice', depreciates when the polity expands its number of citizens.¹⁹ Political participation becomes relatively trivial, even if democracy could be justified on a much smaller scale. Instead, we should opt for a form of political decision-making that takes citizens more seriously and where the decisions of key stakeholders matter more substantially.²⁰

Hegel argues that monarchy is superior to democracy because only an hereditary monarchy is capable of equally representing every citizen satisfactorily.²¹ Elections breed winners and losers on polling day. Democratic officials come to power when sufficient numbers of citizens express a preference for them over others. Elected leaders are therefore the products of articulated interests. The problem is that not all interests in the state will be represented equally. Only an hereditary monarchy can respect this equality because only such a monarch can rise above factions. Monarchies may help to foster the unity of the state through the 'majesty [*Majestät*]' of their office (PR, §281). The monarch is majestic insofar as he is raised above the varied, divisive factions within his state.

Unsurprisingly, many commentators have criticised Hegel in particular for circumscribing the public's voice too narrowly. For example, Dudley Knowles says:

What is left of Hegel's view that the organic constitution of the state precludes the possibility of political liberalism? It amounts to this claim: that persons who are brought up by their parents to respect the state, educated in civil society to bring skills to the market place and apply those skills successfully to a trade, who join with colleagues in corporate activities which elicit a common social purpose greater than the pursuit of

mutual advantage, cannot detach themselves in thought from these affiliations to ask whether the state serves their several and joint purposes, so long as the state is organized in such a way that it does in fact serve these ends.²²

In his attempt to avoid the problems he associates with Athenian democracy, it might be argued that Hegel abandons sufficient opportunities for popular participation in politics. Besides, for Knowles, whether or not the state can function in the way Hegel claims is an empirical question. If Hegel's view is incorrect or, at least, there seem to be reasonable grounds to reject it, then Hegel might be accused of throwing the baby out with the bath water.

The issue of the role of the public in Hegel's mature writings will be considered in section IV. Before we turn to this issue, we should consider the role of experts in these visions so we can understand how the public can act as a restraint on their powers.

(D) *The fourth argument against democracy*

Perhaps the primary and most often highlighted (and criticised) problem Hegel has with democracies is that democracies make decisions without any coherent notion of what they are doing. Democracies are essentially governments run by fools. On the contrary, it would be best to have those with expertise in statecraft take command, as the citizens are unable to govern well because they simply do not know what they are doing. Thus, in Aristotle's words, we should endorse the view that 'they should rule who are able to rule best'.²³

As we have already seen, the problem with democracies is that they allow all citizens to possess an equal voice in political decision-making without regard to the citizenry's lack of knowledge or ability. All members are treated equally despite the fact that some are more capable of good governance than others.²⁴ Therefore, the cobbler and the medical doctor each have an equal say regarding governance and equal to the person with particular expertise in governance. One result is that political judgements will be based by and large upon mere guesswork because expert legislators are not in full command. Democracies are generally poorly governed as a consequence.²⁵

Hegel rejects the view that the people are correct to claim that they know best their interests on account of these interests being their own. Instead, he argues that:

the reverse is in fact the case, for if the term 'the people' denotes a particular category of members of the state, it refers to that category of citizens *who do not know their own will*. To know what one wills, and even more, to know what the will which has being in and for itself – i.e., reason – wills, is the fruit of profound cognition and insight, and this is the very thing [*Sache*] which 'the people' lack. (PR, §301R)

For Hegel, the term 'the people' identifies precisely those least capable of good governance. Citizens are in error to think that they have an equal claim with others on matters simply by virtue of the fact they are interest-holders (PR, §308R). The view here seems to be that it would be a mistake to let the citizens have full responsibility for political decision-making because they lack sufficient knowledge.

Hegel offers an alternative that he believes will overcome this worry by fusing popular participation with expert rule. For Hegel, a constitutional monarch arrives at political decisions with the aid of his cabinet (*Ministerium*). Hegel refers to the monarch with his cabinet as 'the power of the sovereign [*die fürstliche Gewalt*]'.²⁶ Potential ministers are formally educated on state affairs, as well as ethics, and they are rigorously tested (see LNR, §144R; PR, §296). Their education is thought to best allow for their 'dispassionateness, integrity [*Rechtlichkeit*], and polite behaviour' to flourish (PR, §296). A pool of qualified candidates are drawn up based upon evidential proof of their abilities (LNR, §144R). The monarch then selects appropriate ministers for cabinet positions from this pool.²⁷ He may dismiss ministers from his cabinet at will (LNR, §140; PR, §283). While the monarch's decision to employ or discharge ministers is subjective, this is not seen as problematic because it is thought that all potential cabinet ministers would offer the same general advice, at least in principle (PR, §292).

The role of ministers is only to advise the monarch on matters of state, grant consent to his decisions when appropriate, and debate proposals in the legislature. They cannot make any executive decisions on their own, although they can make decisions on foreign affairs with the monarch without the consent of the Estates, including decisions to go to war (see Chapter 9). Ministers play an important role in best enabling the monarch to make proper decisions for the state (LNR, §140, R). The monarch is advised on all political matters by his cabinet: Hegel believes this advice will help prevent the monarch from making mistaken judgements based upon his own personal assessment of what rationality demands (LNR, §140R).²⁸

It is important to get this balance right for several reasons. As Hegel notes, when a civil servant makes an error this problem may lead to more

damaging consequences than if that person were only a private citizen (see *PR*, §294R). A poor business decision may affect its employees, customers, and possibly even its local community. Poor decisions by those in and around government affect everyone in the state. It is crucial that standards are higher for those who will have a greater disproportionate share of political power than common citizens simply because the stakes are so much higher.

The evidence is clear that Hegel advances four criticisms of democracy and potential solutions to them. Hegel's constitutional monarchy is a form of government where reason predominates and the arbitrariness of popular decision-making is tempered, although I will discuss popular participation in the following section (see *PR*, §§263A, 278R). Importantly, liberal democracy can accommodate these criticisms as well.

Before considering whether the arguments behind expert rule are defensible, it is first necessary to consider an important feature of Hegel's constitutional monarchy that is too often overlooked by commentators. That feature is the fact that the public acts as the supreme restraint on the exercise of political power by elites. I will now move to a consideration of how this works before turning to a general defence of his overall position.

IV THE PUBLIC AS THE SUPREME RESTRAINT ON POLITICAL POWER

This is not the end of the story. Hegel is not entirely antagonistic to the popular masses having influence on the exercise of political power. Indeed, he does not argue that those with expertise in governing can simply act however they please. On the contrary, Hegel defends two interesting arguments: first, any just government must be responsive to the public; and, secondly, experts should not have the final word on political decisions. I will examine these two arguments in turn.

(A) *Government should be responsive to the public*

Hegel argues that any just government must be responsive to the public. This fact is often overlooked. For example, Michael Hardimon says of Hegel:

What stands out about this account of the modern political state is precisely the restricted character of the ordinary citizen's participation. Unlike the citizen of ancient Athens or republican Rome, the ordinary

citizen in the modern social world does not participate directly in the decisions of the state. Hegel's modern political state is not a democracy.²⁹

While it is certainly true that Hegel's constitutional monarchy was not a liberal democracy, it is not true that because citizens have restricted political access that Hegel's state is unresponsive to the needs and concerns of these citizens.

In fact, Hegel allows for two major areas of democratic participation. The first is through corporations, which 'represent the communities and various professions' and the Estates, 'with their authorities [*Obrigkeit*], supervisors, administrators, etc.' (PR, §288). The officers in both corporations and the Estates are elected by popular vote (see PR, §288). Corporations act within what Hegel calls the state's civil society and exist primarily as guild-like organisations. The Estates act at state level and are essentially an assembly whose task is to either accept or reject legislation proposed by the monarch.³⁰ Thus, Hegel allows two different levels of elected, popular participation in two institutional bodies that are not without power. Any government that refused to work with the Estates, for instance, would never be able to enact and enforce new laws.

Beyond democratic participation, Hegel allows for other ways in which government must be responsive. For example, he claims that the state's foundations are set, in part, through the establishment of the citizenry's 'trust' and their dispositions towards the government (see PR, §265). Hegel says:

It has often been said that the end of the state is the happiness of its citizens. This is certainly true, for if their welfare is deficient, if their subjective ends are not satisfied, and if they do not find that the state as such is the means to this satisfaction, the state itself stands on an insecure footing. (PR, §265A)

To borrow a phrase from T. H. Green, 'will and not force is the basis of the state'.³¹ That is, a secure state is one where the people are satisfied with their government, their ways of life. The state must embody its citizens' 'feeling for its rights and [present] condition' (PR, §274A). A satisfied people are easier to govern because they accept their political system, unlike dissatisfied people where law-breaking would become far more common. Governments should command popular support in order to govern more effectively and efficiently.

Finally, Hegel believes monarchy is a system that has brought satisfaction to people more often than not. He says:

Monarchs are not exactly distinguished by their physical powers or intellect [*Geist*], yet millions accept them as their rulers. But it is absurd to say that people allow themselves to be ruled in defiance of their own interests, ends, and intentions, for they are not as stupid as that; it is their need, the inner power of the Idea, which compels them to accept such rule and keeps them in this situation, even if they appear to be consciously opposed to it. (PR, §281A)

This view, of course, seems somewhat at odds with Hegel's earlier statements about citizens. Previously he had claimed that the people were unfit to rule because they were unable to identify their interests and the means of attaining them. Yet, in this example, Hegel claims that the common citizenry are capable, albeit capable of recognising that a monarchy can achieve these ends better than if left to themselves in a democracy.

For these reasons, Hegel held that any just government must be responsive to the public. However, we may well feel that the degree of responsiveness he makes room for remains insufficient. In the following section, we will see a second way in which the public matters for Hegel's political thought.

(B) *Experts should not have the final say in political decision-making*

Hegel has been accused of giving insufficient popular representation. The worry is that experts appear to rule without any satisfactory check on their powers. For example, Hardimon says:

if one's concern is with the distribution of power in Hegel's political state, as well it might be, *the proper source of worry* is not the monarchy, whose powers are rather restricted, but rather the bureaucracy, the real seat of power in the modern political state as Hegel represents it.³²

Hardimon does not share his worry alone. For example, Allen Wood argues: 'Hegel plainly intends real political power to be in the hands neither of the prince nor of the people, but of an educated class of professional civil servants'.³³

Hegel's position may appear to succumb to what Robert Dahl calls *the Guardianship argument*.³⁴ This argument says that experts make the final decision in all political matters and originally targets Plato's political thought. Dahl argues this view is unacceptable and we should reject Plato's political vision as a result. Dahl says:

almost all of us do rely on experts to make crucial decisions that bear strongly and directly on our well-being, happiness, health, future, even

our survival, not just physicians, surgeons, and pilots but in our increasingly complex society a myriad of others. So if we let experts make decisions on important matters like these, why shouldn't we turn *government* over to experts?

Attractive as it may seem at times, the argument for Guardianship rather than democracy fails to take sufficient account of some crucial defects . . . *To delegate certain subordinate decisions to experts is not equivalent to ceding final control over major decisions* . . . The fundamental issue . . . is not whether as individuals we must sometimes put our trust in experts. The issue is who or what group should have the final say in decisions made by the government of a state.³⁵

Dahl concedes that we regularly, and quite rightly place, our trust in experts of all kinds every day. He does not deny that experts can be useful in our lives. What Dahl disputes is that experts should have final control.

I do not believe this objection succeeds against Hegel's position. Consider his constitutional monarchy. Members of the cabinet must be responsive to both the monarch and the elected Estates assembly (LNR, §140).³⁶ The monarch is able to sack ministers at will. The monarch with his ministers proposes all pieces of legislation to be approved or disapproved by the Estates.³⁷ The Estates do not propose legislative bills themselves. It is important to note that neither the monarch nor any member of his cabinet can propose legislation on their own either. Instead, whatever legislation the monarch chooses to endorse can be brought to the legislature for consideration if, and only if, 'the competent minister' in the cabinet consents to his doing so (see LNR, §140). Laws can be created and take effect only if ministers can convince the elected body they should approve of these laws.

In addition, it is thought that cabinet ministers can be best held accountable for the advice they offer to the monarch if they openly debate proposals approved by the monarch with themselves in the Estates (see PR, §284). Hegel believes that debating proposals in the Estates will guarantee the competency of ministers, as ministers will have to spend much of their time preparing arguments that might convince them (LNR, §149R).

This public grilling prevents the worry that ministers might come to use their 'knowledge of the legal process hid behind complicated formalities' as 'an instrument of profit and domination', providing the public with 'a great spectacle of outstanding educational value' in state matters (PR, §§297, R, 315A; LNR, §154R). Ministers are forced to make a case for political decisions that non-experts can understand and comprehend. For example, Hegel says:

The educated middle class constitutes the people's consciousness of freedom and right; the developed consciousness of right is to be found in the middle class. But if this class does not have the interests of the citizens at heart, it is like a net thrown over the citizens in order to oppress them . . . Officials must therefore accustom themselves to a popular approach, to popular language, and seek to overcome the difficulties this occasions them. (*LNR*, §145R)

If ministers cannot win the favour of the people for their proposals, government will come to a halt and the state will fail. Thus, Hegel's position can overcome the Guardianship objection.

The public matters to Hegel's theory of government. Not only does his view of just government endorse public responsiveness, but he rejects the idea that experts should exert a stranglehold on power. While experts have a distinct and powerful presence in political decision-making, they may not always get what they want. The people must always be in agreement with experts in a free and fair manner without compulsion or duress.

Hegel's political philosophy and its conception of the just state may be useful for how we develop democratic theory today. While his views are often presented as a foil to advance pro-democracy arguments, Hegel's position is ultimately more friend than foe. Many of his views may be endorsed by contemporary democratic theorists: the state should exist as a unity; popular desires must be held under some constraint to prevent abuses; there is a need for expertise in government; respect for popular opinion; and in all matters the public has the final word on policies. How these positions are developed further may differ, even differ widely, from the particular views that Hegel offers. Hegel's constitutional monarchy is an attempt to overcome concerns about Athenian democracy that many democratic theorists might share today. Perhaps Hegel's preferred alternative remains problematic for contemporary theorists, but it is not as opposed to liberal democracy as it is often portrayed.

V IS THIS POLITICAL VISION DEFENSIBLE?

So is Hegel's general position worth defending? I will now briefly provide some argument in favour of the criticisms that Hegel directs to democratic theory and the general principles behind his alternative vision. I will then consider two possible objections.

(A) *Moderate democracy*

I have thus far avoided any attempt at defining 'democracy' apart from the fact that – whatever it is – it is a form of government to which Hegel attributes a number deficiencies that give us reason to reject democracy in favour of a different form of government. It is perhaps obvious that the Athenian form of government that Hegel attacks bears little resemblance to our modern liberal democratic governments. This fact cannot be highlighted often enough when considering Hegel's political philosophy and its relation to democratic theory.

Yet it would remain far from obvious that we then should take Hegel to be a democrat if this were true. One reason why we should not might be the simple fact that Hegel does not ultimately justify a form of government that is distinctively democratic. Nevertheless, I think we find something rather illuminating when we look below the surface. For example, Hegel's monarch and cabinet may well *propose* laws and policies, but strictly speaking they alone do not determine whether or not these laws and policies are actually *implemented*. This task is reserved for the Estates: this is an elected body representing the common citizens. Hegel fuses together expertise with popular institutions where two important conditions are secured. First, unelected experts have a legitimate role to play in government and they hold real influence. Government should permit a space for law-making and public policy to be influenced by unelected experts. Secondly, these unelected experts should not have a final say in what the political community ultimately decides – the final say rests with elected institutions. Unelected experts should have a space for involvement, but the final decision must rest with the people instead.

The relevance of Hegel's views here for contemporary democratic theory is perhaps surprisingly significant. Most democratic theorists today are understandably exercised about voting rights and political equality amongst citizens.³⁸ Hegel supports a distinctive position: a view we might call 'moderate democracy'.³⁹ We would not want to call it 'limited government' because that phrase refers to the separation of powers where government is thought to be divided between executive, legislative, and judicial branches, and each is more or less equally powerful as each other.⁴⁰ Moderate democracy is distinctive from limited democracy, and the two may not overlap.

A moderate democracy is a government where popular political participation is limited in order to make some room for unelected experts into the political decision-making process. These experts assist elected representatives with the task of governing across all three branches of government.

While they have influence proportionally greater than common citizens, these experts do not have the final say in what the political decisions will be. This task is reserved for elected representatives.

Since at least Joseph Schumpeter and perhaps Max Weber, few have argued that democracy is more than representative government and elections, entailing a widespread reliance on unelected experts, experts who make the task of governing possible for elected politicians.⁴¹ Indeed, it is impossible to imagine a well-organised government today without them.⁴² These experts are the bureaucrats, the law clerks, the civil servants. Through their essential assistance, elected politicians acquire invaluable advice on law-making and public policy reform, including which policies might be best to implement, which reforms are most necessary, and the practical knowledge to help bring this about. *Moderate* democracy helps to transform the theory of democracy from government by ignorance to government with moderation.⁴³ Furthermore, the main arguments behind Hegel's criticisms of democracy seem satisfied by just this kind of a 'moderate' democratic theory. If there is any mileage in the idea of moderate democracy, then Hegel offers something positive to democratic theory that is illuminating and fruitful.

(B) *Possible objections*

We might object to this political vision on the grounds that the people's autonomy is not properly respected. We might think about this worry in at least two ways.

First, we might think that people should ultimately share in equality when political decisions must be made. Hegel's arguments seem to run counter to this view because they suggest that we must not share an equal political voice. For this reason, we might think that his views should be rejected because it insufficiently respects equality.

A first reply to this objection might run something like this. Do we each really have an equal voice? This is doubtful.⁴⁴ For one thing, all votes are not equal under current campaign contribution laws: studies show that contributors have a stronger effect on votes in close elections.⁴⁵ Furthermore, even if we do each have an equal say when we vote for representatives, each individual person does not have the same political voice. Obviously, those who are entrusted as our elected representatives exert more political influence than normal citizens by quite a margin. In addition, there is Schumpeter's simple point that the people do not in general share in any decisions beyond choosing politicians to make political choices on their behalf. So even if we did value individual equality in a more strict sense

than Hegel's position on moderate democracy might permit, it is not true that current democracy politics as practiced and so often defended is much different. Indeed, part of the compelling strength of moderate democracy is that it may better cohere with modern democratic governance than we may have first thought.

A second reply might be this: do we really assign people an equal voice? We do not. Children are excluded from full political participation. Often, so too are felons and non-citizens. Why is this? Well, perhaps the least controversial case is children: every society excludes them from full democratic participation. Yet it is unclear why they are excluded as of right in all instances other than potential ageism. Christiano employs what he calls 'minimal standards of competence' which citizens must satisfy to enjoy full political rights where only persons, such as children, will fail this condition. If our argument was that on average children were less politically competent than adults, we may think about possibly extending this standard to exclude adults who likewise fail to satisfy this standard.⁴⁶ The difference seems to consist in the fact that we just assume some groups pass the test (e.g., normal adults) and some groups always fail, although this is surely empirically untrue: it is not unreasonable to suppose there are some 17-year-olds who are more politically astute than some 18- or, indeed, 81-year-olds. This first objection to limited democracy then fails.⁴⁷

A second objection to moderate democracy might well be that deliberative democracy seems incompatible with it. If those with some expertise deserve a special place in our collective political life, then that is a space that deliberative democrats cannot claim for the citizenry. Moderate democracy should be rejected in favour of liberal democracy.

However, there are two replies to this objection as well. First, deliberative democrats assume that deliberation yields positive effects: namely, that it 'works'. This has been contested. For example, experiments have demonstrated that in many instances people's views actually become more polarised through deliberation rather than less so.⁴⁸ If moderate democracy did place some constraint on the space for deliberative engagement – and it is unclear to me why this must be true – then this need not mandate our rejection of moderate democracy because it is unclear that deliberative democracy is a preferable model. Nor is it clear that deliberative democracy and moderate democracy are incompatible.

A second reply might look something like this. Deliberative democrats assume that people would welcome greater opportunity for deliberative politics if only those opportunities could get off the ground. However, there is a mountain of evidence to the contrary. For example, John Hibbing and Elizabeth Theiss-Morse argue:

The people do not care at all about most public policies and do not want to be more involved in the political process . . . The people prefer a process that allows them to keep politics at arm's length. People seek this kind of system; they have not been forced into it by others . . . their ideal system is one in which they themselves are not involved, but where they can be confident that decision makers will be motivated by a desire to serve the people.⁴⁹

If their empirical research is correct, then deliberative democracy challenge fails because it assumes that people desire greater involvement in politics. On the contrary, most people prefer to keep politics at a manageable distance. The public wants politics far enough away that it does not interfere with their daily routines and close enough so that politicians may be kept in check where appropriate. Moderate democracy is consistent with this account.

VI CONCLUSION

Hegel presents us with criticisms of democracy and positive proposals for an alternative. We need not accept his alternative in order to admire his criticisms and support many of the reasons used to defend his specific alternative.⁵⁰ These reasons are not only defensible, but they provide new routes for the continued development of democratic theory. In particular, they help us to focus greater attention on the significant and necessary role played by properly trained experts in any modern government. Modern government seems impossible without them. Yet these experts are not placed in a privileged position entirely beyond public scrutiny. It is right that government should not only lead, but lead through persuasion, bringing the public on board with its proposals.

Furthermore, it is right that these experts who help elected officials wade through proposed legislation, executive documents, and even potential judicial decisions of the highest order have the vitally important space to *assist* the legislative, executive, and judicial branches, while at the same time these experts, these unelected government officials, do not have in any way a final say on what the political outcomes will be while enjoying their privileged place. It is true that 'the people', if we can call them that, do not simply get whatever they want either. Their choices for elected officials, proposed legislation, etc. are determinate choices: they are neither infinite in number nor in reality. The people choose among choices offered to them, not among all potential theoretical possibilities. But, yet, the people rule. Experts do not have the final say. They must always be responsive to public

opinion no matter how misguided or ill-informed that opinion may be. The citizenry will get the government it deserves at the end of the day.

Hegel's political vision is helpful in understanding what a justification of this system, the system we have in place today, looks like. And, for this reason, he has something to offer the democratic theorist on positive grounds in addition to his illuminating critique. No longer can democratic theorists avoid Hegel's arguments; no longer should they reject all aspects of his theory of just government and the idea of moderate democracy.

CHAPTER 9

War

I INTRODUCTION

Hegel's controversial views on war have been the main focus of interest in his theory of international relations as a whole, perhaps the most neglected area of Hegel's political thought.¹ The controversy surrounding Hegel's discussion of war centres on the question of whether or not Hegel advocates war as a state policy. Earlier commentators, particularly in the aftermath of the Second World War, believed that Hegel defends a state eager to wage war. Thus, for example, Bertrand Russell says: 'Hegel's doctrine of the State . . . [is] a doctrine which, if accepted, justifies every internal tyranny and every external aggression that can be possibly imagined'.² In addition, Karl Popper argues: 'War is not a common and abundant evil but a precious though rare good: – this sums up the views of Hegel and of his followers'.³

Today, most contemporary interpreters, who are more sympathetic to Hegel's view, make a very different case: that Hegel does not, in fact, advocate war. These modern interpreters are divided into two camps. The first camp believe Hegel finds war a necessary evil; the second camp argue that Hegel is, in fact, a proponent of perpetual peace.⁴

I want to defend the position of the first camp of modern interpreters. My view is that Hegel does *not* advocate war as a state policy *nor* does he endorse perpetual peace. Instead, Hegel claims no more than that conflict is inherent between states in an anarchical international sphere. Thus, even if desirable, perpetual peace is impossible to achieve. I do not deny that Hegel notices some positive aspects of war, such as its being a good indicator of a state's health. However, noticing these positive characteristics does not amount to an advocacy of war: they serve only as a description of how war affects states. Thus, the primary aim here is to offer a clearer reading of Hegel's position and dispel readings which suggest that (a) Hegel was not a realist, (b) Hegel endorses war as a state policy, and (c) Hegel endorses

perpetual peace. If my reading is correct, then this will present us with an important step forward in understanding Hegel's views on war.

This chapter is organised in the following way. Firstly, I will look at how Hegel perceives the nature of foreign affairs and how this view gives rise to international conflicts. Secondly, I will then discuss the main positive values for the state that Hegel believes may only result from engaging in war, as well as the question of whether or not Hegel advocates war as a state policy. Thirdly, I will close by considering the question of whether or not Hegel endorses perpetual peace. Throughout, my focus will be on the *Philosophy of Right*, although my reading will be supplemented by Hegel's many supporting comments found elsewhere in his larger philosophical system, allowing us to create a far clearer and robust account of his views on war.

II HEGEL'S THEORY OF INTERNATIONAL RELATIONS

Hegel understands conflict arising between states as part of his more general theory of international relations. This theory is composed of three related, yet different, claims. First, each state is an independent, self-sustaining agent. Secondly, these independent states exist together within an anarchical state of nature where conflict between states is inherent. Thirdly, states only achieve full sovereignty when they are recognized as such by other states in the international system. In this section, I will examine more closely these three claims of Hegel's theory of international relations and how they each contribute to Hegel's understanding of how conflicts arise between states. If I am correct that these three claims are supported by Hegel, then we can establish that Hegel's theory of international relations is a *realist* theory of international relations.

(A) *The state as an independent, self-sustaining agent*

For Hegel, the state is conceived of as a self-sufficient and independent agent.⁵ Hegel is not referring to any state in particular, such as England or Prussia at his time (see PR, §258A). Instead, he is trying to capture essential characteristics found in all states.⁶ Not every state will have these characteristics to the same degree, as some states will embody them more fully than others. For example, states that are truly self-sufficient and independent are considered to be more developed than states that depend on others for their survival (see LNR, §160).

Another example is the degree to which certain political institutions, such as constitutional monarchy, are represented in the state.⁷ This is because, for Hegel, only a monarchy can lend the state a necessary, organic

unity as an individual ‘one’ (see ES, §542R). Without such unity, the state can be conceived as nothing more than an aggregate of competing interests. The monarch can represent *all* citizens in a way elected representatives cannot. Hegel says:

the usual sense in which the term ‘popular sovereignty’ has begun to be used in recent times is to denote *the opposite of that sovereignty which exists in the monarch*. [As conceived] in this opposition [*in diesem Gegensatz*] [to the sovereignty of the monarch], popular sovereignty is not one of those confused thoughts which are based on a *garbled notion* [*Vorstellung*] of the *people*. *Without* its monarch and that *articulation* of the whole which is necessarily and immediately associated with monarchy, *the people* is a formless mass. (PR, §279R (translation modified))

In other words, Hegel objects to the use of elections in choosing the head of state because it runs counter to his view of the state as organic. Rather, the head of state is a necessary part of the just state and beyond all particular interests of the citizenry.⁸ Thus, states that are not yet functioning constitutional monarchies, for Hegel, are less developed states than those which are.

As independent agents, states relate to one another as best suits their individual interests. For Hegel, the state’s own welfare is its priority in its relations with other states (PR, §336). Hegel speaks of these states as ‘individuals’.⁹ Individual human beings differ from states insofar as only human beings are interdependent, relying on their manifold relations with other persons within the state in order to satisfy their needs.

The persons who decide which international policies best promote the state’s interests are the monarch and his cabinet, a fact overlooked by most interpreters.¹⁰ Hegel says:

The outward orientation of the state derives from the fact that it is an individual subject. Its relationship with other states therefore comes under the *power of the sovereign* [*die fürstliche Gewalt*], who therefore has direct and sole responsibility for the command of the armed forces, for the conduct of relations with other states through ambassadors, etc., and for making war and peace, and [enter into] concluding treaties of other kinds [*und andere Traktate zu schließen*]. (PR, §329 (translation modified))

The monarch and his cabinet as ‘the power of the sovereign’ represent the state because, for Hegel, states relate to one another as independent, individual subjects (see PR, §§329, 331). All decisions relating to foreign

affairs are decided by the monarch and the relevant member of his cabinet, whom the monarch may replace at will.¹¹ The legislature does not approve decisions to go to war (see *ES*, §544), although they alone must approve setting, collection and spending of public taxes (see *PR*, §301A). With the monarch at the state's head, Hegel can say: 'In this determination, the state has *individuality*, which essentially exists as an individual and, in the sovereign, as an actual and immediate individual'.¹² As a result, states relate to each other not only as individual agents, but through a particular individual that represents the organic unity of the state: the monarch.

(B) *Anarchy*

Hegel believed international relations was characterised by anarchy (see *LNR*, §161). This anarchy is largely a product of the fact that, as states are independent agents, there is not a higher authority to regulate the relations between states.¹³

Hegel's position is indebted to that of Hobbes.¹⁴ For Hobbes, states exist side-by-side as independent agents in a state of nature.¹⁵ This state of nature 'is a condition of War' of one versus all.¹⁶ Hobbes says:

To this warre of every man against every man, this is also consequent; that nothing can be Unjust. The notions of Right and Wrong, Justice and Injustice have there no place. Where there is no common Power, there is no Law: where no Law, no Injustice.¹⁷

Thus, for Hobbes, conflict arises naturally when there is an absence of any governing authority that can settle disputes. In addition, these disputes are not matters of law nor justice as either would entail a legitimate power.

Likewise, Hegel thought states existed in 'a state of war' resulting from anarchy (see *ES*, §545). Such conflicts arise naturally: 'wars must be regarded as necessary because independent peoples exist alongside one another' (*LNR*, §160R).¹⁸ Hegel is not justifying war, only describing one essential feature of wars in general.¹⁹ Without any governing authority in the international sphere, there is no institution that a state can appeal to if a dispute should arise between another state and itself. Instead, states must solve such disputes by themselves. One manner of resolving difference is by waging war.²⁰ These wars should not be considered as 'an absolute evil [*Übel*]' (*PR*, §324R). Following Hobbes, this is because, for Hegel, 'it is just not possible to say anything against wars since states are opposed to one another as individuals living in nature [*Naturindividuen*]' (*LNR*, §162R). Conflict between states is a natural by-product of the state of nature in

which all states find themselves. It is not good or evil in itself. In a phrase, just as we might say ‘life happens’ we can say ‘war happens’. The existence of war is akin to the existence of love, friendship, and loss: they are all a part of the human condition.

None of this entails that states cannot agree to treaties or any other kind of agreement with one another. Indeed, it may well be true, following Alexander Wendt, that ‘anarchy is what states make of it’.²¹ Rather, all that is entailed is that these treaties require no greater obligation than that they ‘ought to be [*Sollen*]’ adhered to – although states need not do so (see *PR*, §333). That is, states ‘ought’ to make good their promises to one another. However, each state is an independent agent and, as such, decides for itself whether it will continue to honour its particular agreements. If it elects to discontinue an agreement, the state may have broken its promise to another state, but it has not contravened right and there is no higher authority that may punish it.

(C) *Relations between states*

As we have seen above, Hegel conceives of the state as an independent, self-sufficient agent that exists alongside other states in a state of nature. In addition, Hegel says:

Without relationship [*Verhältnis*] with other states, the state can be no more an actual individual [*Individuum*] than an individual [*der Einzelne*] [human being] can be an actual person without a relationship [*Relation*] with other persons. On the other hand, the legitimacy of a state, and more precisely – insofar as it has external relations – of the power of its sovereign, is a purely internal matter. (*PR*, §331R (translation modified))

Every state has legitimacy insofar as it is a state, that is, an independent, self-sufficient agent.

Some commentators claim that relations between states are akin to Hegel’s discussion of the master and slave found in his *Phenomenology of Spirit*,²² where he says, ‘it is only through staking one’s life that freedom is won . . . The individual who has not risked his life may well be recognized as a person, but he has not attained to the truth of this recognition as an independent self-consciousness’ (*PS*, p. 114.). Thus, these commentators believe the state might likewise be thought to gain complete freedom only by putting its existence at risk in a struggle for recognition from other states. If the state can do this and survive, it attains a higher level of acknowledgement as an independent, sovereign entity.

The main difficulty with this view is the fact that Hegel nowhere suggests that states must engage in struggle in order to achieve full sovereignty.²³ Nor must states engage in a struggle for recognition (see *ES*, §432A). In fact, again, in the *Philosophy of Right*, he says that 'the legitimacy of the state . . . is a purely internal matter', independent of the views of other states (see *PR*, §331R). For these reasons, I do not believe the master and slave analogy is applicable at all to Hegel's views on international relations. States do not need to ever enter into a struggle with other states in order to attain full sovereignty.

It is also important to note that the relation between states in the international sphere is rather different from the relation between individual persons in civil society. Hegel says:

In civil society, each individual is his own end, and all else means nothing to him. But he cannot accomplish the full extent of his ends without reference to others; these others are therefore the means to the end of the particular [person]. But through its reference to others, the particular end takes on the form of universality, and gains satisfaction by simultaneously satisfying the welfare of others. (*PR*, §182A)

Thus, on the one hand, states are conceived to be self-sufficient and independent agents. Any state that does rely on other states for its survival is degenerate to some degree. On the other hand, individuals are interdependent agents. It is then incorrect to think that the relations between individuals in civil society are analogous to the relations between states in international relations.²⁴ States do not exist interdependently, unlike the relationship between individuals within a state.

(D) *Hegel's realism*

Hegel's theory of international relations is thought by many to fit comfortably within the school of realist international political theory.²⁵ For example, E. H. Carr says:

The realist view that no ethical standards are applicable to relations between states can be traced from Machiavelli through Spinoza and Hobbes to Hegel, in whom it found its most finished and thorough-going expression.²⁶

Thus far, I have argued that Hegel's theory of international relations is a thoroughgoing *realist* theory of international relations. To further clarify,

contemporary theorists ascribe four primary characteristics to realism:²⁷ (1) states are primary actors and behave as unitary-rational agents,²⁸ (2) relations between states are akin to a state of nature,²⁹ (3) agreements between states are only temporary, as there is no higher adjudicator,³⁰ and (4) the state is the ultimate unit of social and political life.³¹ I have tried to demonstrate how Hegel adopts all four of these theses. States are independent, self-sufficient agents that relate to one another in a state of nature and without any governing authority to manage their disputes, as the state is the highest form of political life.³² When disputes arise between states, they can resort to war only when negotiations fail (or are undesirable).

While I have only given a general treatment of Hegel's theory of international relations, I hope that it is now clear *how* wars arise within Hegel's theory. This part of the story is relatively uncontroversial. In the next section, I will examine the more controversial question of whether or not Hegel advocates war. I will argue that Hegel neither argues that states should adopt war as a policy nor does he argue for perpetual peace.

III DOES HEGEL ADVOCATE WAR?

The state is best represented in its foreign relations when the state possesses its proper unity as a constitutional monarchy. How strongly unified a state is becomes plain in war. Hegel says: 'The health of a state generally reveals itself not so much in the tranquillity of peace as in the turmoil of war' (GC, p. 7). A healthy state is a state that is strong. Strictly speaking, Hegel is *not* advocating war at all. Rather, he simply describes one positive feature of war, namely, that it is a good indicator of how healthy a state is. He says:

For the strength of a country consists neither in the number of its inhabitants and troops, nor in its fertility, nor in its size, but solely in the way in which all of this can be used towards the great end of common defence through the rational union of its parts under a single political authority. (GC, pp. 39-40)³³

He justifies this descriptive position with the example of an army of 500 men that defeated a force of 20,000 men. Hegel says the larger force lost because they 'simply lacked the disposition to act in close association with others' (PR, §327A). Here Hegel only notes a reason why one army was defeated by another. He is not arguing that states should wage war in order to increase their unity nor to check how unified they currently are.

Hegel defines the form of 'close association' just mentioned above as

patriotism. In times of peace, citizens pursue the satisfactions of their wants and desires in civil society. Hegel says:

The citizens of this state are private persons, linked to the universal by their needs. Their essential activity consists in imparting the form of universality to, and thereby conferring validity upon, arbitrary desires as well as needs and their satisfaction. (LNR, §91)

Patriotism is simply the recognition that a citizen's pursuit of private desires is made possible by the state (see LNR, §132R). For this reason, the state commands the citizen's highest allegiance as it is the fountain from which our rights and livelihood flow (see PR, §268). Patriotism's goal is simply the continued preservation of the state (see PH, p. 312).

That said, Hegel's view of patriotism is very different from what we might normally think patriotism entails. This fact is captured well by Dudley Knowles, who says:

[Hegel's brand of] patriotism is not the spirit of the flag-waver, the ardent royalist, the active politician, or the aged schoolteacher who drives his young pupils to death in the trenches. It is the sense of well-being of those who passively identify with the state, who do not see its demands as onerous or its forces as hostile, who co-operate willingly when asked, and get on with their lives when not.³⁴

Thus, following Harry Brod, we might say that '[p]atriotism is not an act but an attitude'.³⁵ The strength the state gains as a patriotic unity does not entail ethnic homogeny.³⁶ Instead, we might say that states acquire an *ethical* homogeny, that is, a shared conception of justice. Thus, for Hegel, according to David Boucher, '[w]ar . . . serves the purpose of what we may call *ethical* cleansing'.³⁷ Similarly, Stephen Walt claims that, for Hegel, 'War is also a vaccination which, by generating antibodies, strengthens the body of the state and improves the ethical health of its citizens'.³⁸

Hegel believes that during long periods of peace, citizens concern themselves primarily with the satisfaction of their needs in civil society instead of concerning themselves with the well-being of the state. He believes states become weak through this inattention to the state during times of peace: 'Wars are like winds upon the sea; without them the water would become foul, and so it is with the state' (LNR, §160R).³⁹ War forces citizens to turn their attention to defending what they share in common – namely, the state – rather than continuing to pursue their self-interested wants. Hegel says:

there is a duty incumbent upon all to sacrifice themselves for the preservation of the state. Individuals have their honour, their essential subsistence, in the state alone. Properly speaking, individuals can sacrifice themselves only for the state as a whole, for if a citizen were to go to war for his property, he would be staking his life for the sake of his property, although without his life his property would be of no use to him. (LNR, §160R)

Thus, Gordon says: ‘War is not about defending “the State,” as a universal or abstract institution. War is about defending *our* state, the one that represents and guarantees *our* “basic sense of order,” and *our* particular freedom’.⁴⁰ War is about preserving our way of life.

Nowhere here does Hegel advocate war as a state policy. Nor is he justifying war. Instead, for Hegel, states will sometimes conflict with one another by simple virtue of the fact that all nations exist in a state of nature as we argued above in section II. That wars may be waged from time to time is a given and inevitable by-product of the international anarchical realm. However, when Hegel notes that states may become ‘foul’ without engaging in war or that patriotism is fostered during times of conflict rather than times of peace, he is only *describing* certain positive features that are related to warring states. He is *not* saying that states ought to engage in war in order to remain fresh and cultivate patriotism amongst their citizenry.⁴¹

It is certainly true that Hegel’s monarch does have some rather wide discretion in determining when to go to war. As Shelton correctly says: ‘nothing in Hegel’s view can render it impossible for a state to pursue a legitimate interest that it fully expects to lead to war or to refuse to make an international agreement on the grounds that it is incompatible with the national interest’.⁴² Thus, for Hegel, a state may fight aggressive wars, so long as its aim is defensive. Hegel says: ‘The state does not have to wait for direct injury or attack; on the contrary, the mere danger of an attack or injury, or excessive growth in strength, may cause a state to resort to war’ (LNR, §162R).⁴³

I would not want to suggest that states which decide to go to war are never mistaken. In fact, for Hegel, the state is a *Rechtsstaat* founded on right and justice, rather than a *Machtstaat* founded on might and force.⁴⁴ However, it is also true that in war the side acting most consistently with justice does not always win: arbitrariness and contingency cloud all foreign affairs (see GC, p. 70). In some instances, Hegel seems to believe that certain states properly dominate other states.⁴⁵ As one example, he says that ‘civilized nations [*Nationen*] [are entitled] to regard and treat as barbarians other nations which are less advanced than they are in the substantial

moments of the state' (*PR*, §351). In a second example, he argues that, as a flourishing civil society requires new markets and a 'sphere of industrial activity', states will need to conquer new lands and establish colonies (*PR*, §248). Indeed, colonisation also has the positive effect of providing a new start for persons unable to satisfy their needs in the state (see *PR*, §248A). In no case does he claim a state is wrong in any absolute sense to wage war. Perhaps the functions Hegel ascribes to war can be fulfilled by some alternative. However, for Hegel, this is simply not the case and it is hard to imagine what might take war's place.

Thus far in this chapter, I have argued that Hegel views states as independent, self-subsisting agents interacting in a state of nature where conflicts between states naturally arise without a governing power to settle disputes. All foreign policy decisions are made by the monarch with his cabinet.⁴⁶ While states will always come into conflict with other states within a state of nature as a simple matter of fact, Hegel does not argue that states should ever wage war, let alone perpetual war, against one other. War is only 'good', for Hegel, to the extent that there is positive value in the state waging war.⁴⁷ Wars are fought because the international sphere lacks a common power. States will inevitably clash with each other given the lack of any higher authority to which they might appeal.

There are two main reasons to think war no longer has a positive value for states constantly battling other states. The first reason is that Hegel believes that while there might be some benefit in engaging in wars, this benefit begins to decline after a certain point. As an example, he argues that the problem with Asian states, such as China, is the fact that '[t]hey are in ceaseless conflict' as this conflict 'brings on rapid destruction' of the state (*PH*, p. 106).

The second reason to think Hegel opposes perpetual warfare is because – given that perpetual war leads to the destruction of the state, although more limited battles bring a number of important benefits to the state – 'war is that of something which ought to come to an end' (*PR*, §338). States should be such 'that enables other states to live at peace with it' by honouring the possibility of peaceful resolution (*LNR*, §161R). Hegel does not so much offer solutions to what states can do to leave the door open to peace, as he does give examples of what states can do to keep the door from slamming shut. For instance, he believes that warring states should provide immunity to the ambassadors of other states, preventing their capture or execution (see *PR*, §338). As ambassadors are crucial to negotiating the end of conflicts, it is important that their use not be discouraged. In addition, Hegel argues that non-combatants in society should not be targeted by the military (see *PR*, §338). If the state fails in these tasks and closes the door on

an eventual resolution of conflict, then it puts its own well-being in jeopardy.

For these reasons, it is clear that Hegel does not advocate war. Wars will naturally arise from states living in a state of nature. Rather than endorsing decisions to wage war, Hegel instead only highlights how war can serve as an indicator of how unified a state is or how patriotic its citizens. He does not argue that states should engage in war in order to bring about greater unity or patriotism.

Nevertheless, we may still think that if occasional wars bring about limited benefits to a state, then a state in need of such benefits would be wise on Hegel's account to enter into war as a policy of state. However, from the standpoint of right, again Hegel tells us that 'war is that of something which ought to come to an end' (PR, §338). War is not something which ought to have begun. That wars happen is an inevitable and perhaps even tragic consequence of an anarchical international sphere. War happens and, yet, it is something we ought to avoid whenever necessary. If we were to argue that a state might pursue war in order to enjoy benefits, then this view departs in several important respects from Hegel's position.⁴⁸ He should not be attributed with a position that he would so clearly deny.

IV DOES HEGEL ENDORSE PERPETUAL PEACE?

Most modern interpreters acknowledge the fact that Hegel does have some positive comments on hand that refer to warring states. Interpreters are divided, however, on the question of whether or not Hegel believes states will remain in a continuous state of war or whether a perpetual peace is possible. I argued above that Hegel does not believe perpetual war is beneficial to states, although conflicts between them will continually arise. In this section, I will argue that Hegel does not advocate perpetual peace either.

A perhaps surprising number of interpreters believe that Hegel's views entail an eventual end to all wars. The term 'perpetual peace', while not originally his, is most popularly known from Kant's short tractate of the same name.⁴⁹ The title suggests that Kant will defend a permanent international peace and many commentators have taken him to be doing just this. For example, Steven Walt says, 'Kant's ideal of perpetual peace is one of perpetual peace within a world state and not among juridically independent nations'.⁵⁰ Walt's view that Kant desired a world state for perpetual peace is mistaken. Kant argues that if the state were incorporated into any other state, this would 'destroy its existence': 'such incorporation thus contradicts the idea of the original contract without which no right

over a people can be conceived'.⁵¹ Instead, the states should band together in 'a league of nations'.⁵² Moreover, Kant argues that morality 'makes a state of peace a direct duty, even though peace cannot be established or secured except by a compact among nations'.⁵³ The problem is that while 'in theory' Kant claims 'there is no conflict between morals and politics' he nevertheless recognises that a conflict between them 'will always remain' in practice.⁵⁴ While this need not mean that such a conflict will necessarily entail war, Kant does not rule this out either. We have no reason to doubt that Kant thought perpetual peace desirable. However, there is some reason to doubt whether or not Kant thought perpetual peace possible in actual practice.

Nevertheless, not every interpreter believes Kant and Hegel share the same position here and with good reason.⁵⁵ For example, Hegel says: 'Just as the blowing of the winds preserves the sea from the foulness which would result from a continual calm, so also corruption would result for peoples under continual or indeed "perpetual" peace' (NL, p. 93).⁵⁶ We saw above that Hegel claims states become weak, lose their unity and break up if the state does not engage in war periodically. In addition, he states:

Kant and others have spoken of perpetual peace, and this is a well-meaning thought, which is also morally good; but the starting point has been that war is something that ought not to be. Yet without war peoples sink into merely private life – the security and weakness that make them an easy prey for other peoples . . . A league to preserve perpetual peace always necessarily involves the free decision of individual states whether to remain in the league or not; for without this freedom of decision they are no longer independent states. (LNR, §162R)⁵⁷

Hegel's argument here is not that states ought to avoid making treaties with one another; on the contrary, he finds the thought of perpetual peace 'morally good'. However, Hegel resists endorsing this idea for reasons we have seen before: he fears that people will look only to their own welfare in times of extended peace, concerned more with the pursuit of their own self-satisfaction than with the greater good of the community. In addition, he notes the decisions of states as independent wholes is subject to change: there is no higher authority to hold states to account if they opt out of a league of nations.

Instead of perpetual peace, we may wonder why Hegel does not endorse a world-state. If the consolidated state is an ideal, does it matter what size it is? For Hegel, size matters. He believes that states will become unstable and fall apart if their population becomes too large (see SL, p. 370). This is especially

true with democracies, which Hegel believes are impossible to maintain in a size greater than a city.⁵⁸ He explains: 'The larger the number of citizens, the less possibility there is for individuals to exert a significant influence on the whole, and they lose interest. What the individual can do appears to be of minimal importance' (LNR, §136R (translation modified)). Indeed, the individual is important, for Hegel, because the modern state must account for the views and conscience of its people.⁵⁹ Beyond a certain size, the state cannot be responsive to the convictions of its citizens. Thus, for Hegel, an end to war does not lie in the creation of a world-state.

Perhaps instead we might argue that Hegel believes peace will sustain itself through a balance of power amongst states. For instance, Henry Kissinger defines the balance of power as: 'the universe, including the political sphere, operated according to rational principles which balanced each other. Seemingly random acts by reasonable men would, in their totality, tend toward the common good'.⁶⁰ Indeed, Hegel does use the term 'balance of power', but he only does so with reference to the relations between European states.⁶¹ For Hegel, European states also come together in a family where:

The European nations [*Nationen*] form a family with respect to the universal principle of their legislation, customs, and culture [*Bildung*], so that their conduct in terms of international law is modified accordingly in a situation which is otherwise dominated by the mutual infliction of evils [*Übeln*]. (PR, §339A)

In addition, Hegel says elsewhere that 'in Europe nowadays each nation is bounded by another and may not of itself begin a war against another European nation' (LA, p. 1062). Is not then the end of war inevitable, for Hegel, at least in Europe?

I do not believe it is. I am happy to concede the fact that Hegel believes it is possible for states to attempt to preserve peace amongst themselves. However, it is also true that he views all such attempts as impermanent (see LNR, §160R). All decisions made in international relations depend on 'particular sovereign wills, and would therefore continue to be tainted with contingency' (PR, §333R). Contingencies, such as the availability of resources, may have an effect on a state's ability to maintain peaceful relations with other states. As it is the state's primary duty to provide for its own welfare, competition for resources and new markets may colour a state's attempt to preserve peace (see PR, §§336–7). Given the fact that, in addition to these factors, Hegel conceives of states as existing in a state of nature, there is always the possibility of conflict between states.

In addition, Hegel argues that 'even if a number of states join together as a family, this league [pursuing perpetual peace], in its individuality, must generate opposition and create an enemy' (PR, §324A). The reason for this is Hegel's view that for a state to exist as an individual it must have determinacy.⁶² The state gains this by distinguishing itself from other states, thus becoming a determinate individuality.⁶³ If the state cannot do so, then it is not an individuality which would violate part of Hegel's general theory of international relations, namely, the view that states exist as independent individuals (represented in a unity by a particular individual, the monarch). Again, Hegel is not arguing that states should enter into conflicts with other states in order to become a determinate individuality. Instead, his claim is just that states lack true individuality and distinctiveness without contrast to other states.

Notwithstanding these doubts, several commentators believe that Hegel may actually support the end of war and a future of peace. Smith, for example, says:

The idea of an end of history means essentially the growing rationalization or Westernization of humanity, founded on the twin principles of the rule of law and Protestant Christianity . . . The triumph of reason will mean the elimination of the grounds of war and conflict, because there will be nothing left to fight about . . . In the final analysis, Hegel's idea of history tends to undercut his insistence on the necessity, and even nobility, of war.⁶⁴

There are two distinct claims being made here: (1) that all states will eventually enter the Germanic sphere⁶⁵ and (2) at the end of history all states in the Germanic sphere will not wage war against each other. Of course, at the time of Hegel's writing the *Philosophy of Right*, no state outside Europe (apart from the United States) was considered by Hegel to be part of the Germanic sphere. Thus, Smith and others are making a claim about the future. This might be one step too far, as Hegel says that 'prophecy is not the business of the philosopher'.⁶⁶ World history may be 'the world's court of judgement [*Weltgericht*]', but we cannot predict with any certainty what this judgement of history will be.⁶⁷ Elsewhere in the *Philosophy of Right*, Hegel adds:

A further word on the subject of issuing instructions on how the world ought to be: philosophy, at any rate, always comes too late to perform this task . . . the owl of Minerva only begins its flight with the onset of dusk.⁶⁸

Strictly speaking, exactly how states will progress in the future can be no more than an informed guess: as Bubner says: ‘The owl of Minerva begins its flight at dusk. But every evening brings forth a new day’.⁶⁹ Indeed, the one prediction Hegel allows himself on war – that modern wars ‘are accordingly waged in a humane manner’ (see PR, §338A) – is tragically false. Will all states follow Europe’s lead? Perhaps they will. Nowhere does Hegel clearly state that this will happen.

V CONCLUSION

In this chapter, I have argued that Hegel neither advocates war nor perpetual peace. It is true that he has positive remarks to attribute to war. However, here Hegel is not justifying war. He is instead simply highlighting how war serves as a good indicator of important features of states, such as their degree of unity and patriotism. He does *not* claim states should wage war in order to foster unity or patriotism. Hegel does think wars inevitably arise within the anarchical state of nature that is international politics. For this reason, I do not believe Hegel endorses some variant of perpetual peace, leading me to disagree with a growing number of commentators on Hegel’s political philosophy.

If there is something objectionable about Hegel’s analysis, it is with his conception of the state as self-sufficient and independent. In our modern era of globalisation, we have seen increasing interconnection between states in communications and technology, trade, travel, and other areas. In addition, there are problems faced by individual states – such as terrorism, global warming and intellectual property rights – that admit of a multi-national, if not international, solution. States can no longer go it alone.

Hegel’s descriptive views on war are suggestive. However, if they are to have any relevance for how we think about international relations today, then it would appear that modern ‘Hegelians’ must rethink how the state is conceived, as well as the foundations of Hegel’s classical realism. Indeed, many realists today have done just this themselves in order to remain relevant, as well as insightful.⁷⁰ Whether or not Hegel’s views can be rehabilitated likewise remains to be seen.

CHAPTER 10

History

I INTRODUCTION

The idea that the world has reached ‘the end of history’ is often attributed to Hegel. This ‘end of history thesis’ received new prominence with the publication of *The End of History and the Last Man* by Francis Fukuyama.¹ He argues:

What we may be witnessing is not just the end of the Cold War, or the passing of a particular period of postwar history, but the end of history as such; that is, the end point of mankind’s ideological evolution and the universalization of Western liberal democracy as the final form of human government.²

Fukuyama argues that historical progress is not infinite and it has a definite end. The end of history is human freedom and this takes the form of liberal democracy where it can best flourish. The importance of this argument is that it is explicitly attributed to Fukuyama’s understanding of Hegel’s philosophy of history.³ This view has exerted an impressive influence over the now widely held view that Hegel accepts the end of history thesis in some form. While many criticisms of this thesis have rejected the idea that Fukuyama is correct about the triumph of liberal democracy over non-democracies, relatively little has been said about whether it is fair to consider Hegel as the father of the idea of an end of history.⁴

In this chapter, I will examine why many have attributed the end of history thesis to Hegel, and then explain why this reveals a central mistake not only about Hegel’s philosophy of history, but his philosophical project more generally. We gain an improved understanding about Hegel’s central project through a closer engagement with his philosophy of history. Moreover, a systematic reading of Hegel’s works best elucidates how fundamental features of his philosophical project closely connect with

his philosophy of history.⁵ I shall argue that Hegel both rejects the end of history thesis and the view that philosophy is able to offer certain judgements about the future more generally.

II THE END OF HISTORY THESIS

Francis Fukuyama has helped to popularise the now widely held view that Hegel accepted some version of the end of history thesis.⁶ This thesis rejects the position that history evolves endlessly. On the contrary, the end of history thesis claims that history has an end. Such a view is not unique. For example, some believe that human history will culminate in the second coming of Christ: human history will not develop forever and there is a final stage to be reached. The end of history thesis need not always be an explicitly religious doctrine. But it does argue similarly that human history has a final developmental stage. Moreover, proponents of this thesis claim they know something about this last stage.

It is widely accepted by many Hegel scholars that Hegel did accept the end of history thesis in some form. Nor are these commentators without important textual evidence that Hegel did support this thesis. For example, Joseph McCarney lists three key statements by Hegel that appear to support the end of history thesis:

‘World history travels from East to West, for Europe is absolutely the end of world history, Asia the beginning.’ (PH, p. 103)

‘[T]he Christian world is the world of completion; the principle is fulfilled and thereby the end of days is fully come.’ (PH, p. 342)

‘[W]ith this formally absolute principle [of reason] we come to the *last stage of history, to our world, to our time.*’ (PH, p. 442)⁷

For McCarney, this evidence weighs heavily in favour of Hegel’s acceptance of the end of history thesis: ‘The proposition does indeed represent a terminus beyond which there can be no progress in that particular line’: the end of history has arrived and Hegel is confirming how we should we understand it.⁸ Indeed, Hegel’s statements appear to do precisely this: Europe is ‘absolutely the end of world history’, Christendom is ‘the world of completion’, and ‘our world’ is the ‘last stage of history’. The *prima facie* may even seem strongly convincing.

Hegel’s apparent acceptance of the end of history thesis does not claim that history reaches its ultimate completion in some countries without some

attempt at justification. He argues in the above-cited passages that Europe holds its position on *philosophical* grounds. For Hegel, the primacy of Europe owes nothing to his being European. Instead, Europe does best because it has achieved the most in terms of freedom for its citizens. To understand the development of history is intimately linked with the development of freedom. Hegel argues that some countries have developed better than others because they best promote the subjective and objective spheres of freedom. One illustration concerns crime and punishment. More advanced societies accept and uphold the view that punishment should be individually tailored to offenders in light of the threat to civil society arising from their crimes (see *PR*, §218R, A). Less advanced societies fail to punish offenders individually for their crimes and on such a basis (see *PH*, p. 130).⁹ So the end of history thesis is a view about the most comprehensive fulfilment of individual freedom. The more free a polity, the more historically advanced it is. This further highlights the fact that Hegel's philosophy of history is a philosophy of freedom at its heart: world history charts the development of freedom across states. In addition, the most comprehensive fulfilment of individual freedom has also been reached. Thus, the end of history thesis is a view about the highest development of freedom and the claim that this has been achieved (see *ES*, §552R). A freer, more historically advanced society is impossible. We may come no closer than realising paradise on Earth.

The claim that the end of history has been achieved does not deny the possibility of all future historical progress. While some states may have reached this threshold, many others have not. The end of history thesis is, then, the position that the end of history is about the most comprehensive fulfilment of freedom and that this has been achieved by at least some. The end of history thesis is not what we might call 'the end of any further history thesis'. History remains as long as there is still historical development to unfold. Historical development will end only when all societies have achieved the final developmental stage of freedom.¹⁰

This understanding of the end of history thesis coheres with Fukuyama's more recent restatement. The end of history, for Fukuyama, is not a claim that the world has ended its development. Instead, the end of history is an argument that the beginning of the end has arrived through the establishment of liberal democracy.¹¹ Hegel appears to argue likewise: when we look to world history, we find that some societies have achieved its final developmental stage. While many societies have much further potential historical development in their futures, we may discern the contours of this final stage and highest achievement of freedom. For Hegel, history is 'a story that is over'.¹² These positions appear to offer strong support in favour of

Hegel's acceptance of the end of history thesis. The remaining sections will make clear that this would be a mistake.

III PHILOSOPHY AS HISTORICAL

Hegel's views on history and its development are philosophical. I have argued that this view is intimately linked with the centrality of freedom in Hegel's thought. Thus, the philosophy of history is a philosophy about the progress of human freedom over time.¹³ It is relatively easy to accept the view that Hegel does accept the end of history thesis after all. First, he offers several highly suggestive statements that seem to support this interpretation. This issue has been discussed in the previous section.

But there is more. Secondly, Hegel's views on history appear to be confirmed in the general shape of his philosophical project.¹⁴ For example, he defends a view about history where there are particular historical stages moving from the least to the most advanced. Interestingly, Hegel's position here is perhaps less clear than we might expect. Whereas Hegel normally defended an explicitly tripartite view of dialectical development, there is a four-stage movement offered in the philosophy of history.¹⁵ History begins with the 'Oriental world' where we move from China through India to Persia 'and its constituent parts' (which include Egypt). The second part consists of the Greeks, part three concerns the Romans, and the final fourth part is 'the German world'.¹⁶ This four-part division is found in the *Philosophy of Right*, but curiously absent altogether in the *Philosophy of Spirit* (see *ES*, §§548–52; *LNR*, §§165–70; *PR*, §§341–60). While Hegel may present historical development in four parts, it should be understood in terms of three distinct stages.¹⁷ This is not to deny that a threefold developmental structure is absent in Hegel's account, and he briefly presents such an account where the first stage is where one is free, the second is where some are free, and the final third stage is where all are free (see *PH*, p. 104). Nevertheless, Hegel offers us a *philosophical* account of history and not a chronological understanding. Our task is to comprehend the philosophical rather than chronological development of history. If we attempt this in the way that Hegel proposes, then we should see the development of history as the progression of individual freedom and perhaps its highest embodiment in some societies now at the end of history. But this last position – namely, that Hegel defends the end of history thesis – is a mistake.

We must understand Hegel's discussion about the philosophy of history within the context of his philosophical project. This context clarifies the central aims of this project and what it attempts to achieve. Most im-

portantly, this context helps to illuminate Hegel's remarks about the philosophy of history.¹⁸

Recall that Hegel's philosophy rests on the foundations presented in his speculative logic. Hegel argues that it is through logic that we learn 'how to think' philosophically (SL, p. 26). For Hegel, philosophical logic is about 'a *thinking consideration* of objects' (EL, §2). Philosophical logic is also 'a peculiar mode of thinking' that differs from our everyday consideration of the world (EL, §2; see §§3R, 4). Logic is a rigorous critical examination of 'what is there before us' without reliance on our presuppositions (SL, p. 69; see EL, p. 5).¹⁹ It permits us to discern everything 'real, i.e. of every concept or of everything true in general' (EL, §79R).

Crucially, philosophy is intrinsically historical. For Hegel, philosophy is a process of 'thinking-over' considerations before us (EL, §5). We generate philosophical progress by thinking over what has passed in order to gain deeper insight (see EL, §§2R, 6). Philosophy attempts to appraise the world in terms of its essential rationality rather than what is merely contingent (see SL, pp. 465–6, 510). Logic is ultimately bound up with the progress of freedom (see SL, pp. 571, 582). The development of individual political states should be considered in light of their philosophical progress and freedom: 'the history of the world is none other than the progress of the consciousness of freedom' (PH, p. 19; see LNR, §170; PH, pp. 41, 457; SL, p. 757).²⁰ Therefore, a 'bad' state is a polity that has made little progress in the development of its citizens' freedom, such as 'tyrannous governments' (SL, p. 799; see EL, §§24A2, 80A, 108A).

The (in)famous 'Doppelsatz' (or 'double saying') – that 'what is rational, is actual; and what is actual, is rational' – is meant to be understood as a statement about a philosophical analysis about political development (see EL, §6R; PR, p. 20). Hegel insists that in the realm of every-day opinion that which exists is actual and this is a mistake (PR, p. 20). On the contrary, actuality should be distinguished from merely existing where what is actual has existence in its relation to its more complete 'philosophical composition' (PR, p. 21; see PH, p. 12). A political state does not merely exist; such a state becomes more actual the closer it relates to the Idea of the state as presented in the *Philosophy of Right*. Most, if not all, existing states may fall short of this ideal. States may often be actual in degrees where some attain greater actuality than others. To say a state is more actual than another is not to say that a state does not exist, but that it might exist better. The determination of actuality is a judgement that is based upon a particular perspective and this, for Hegel, is presented in his logic and its application to various spheres, including politics.

Hegelian logic allows us to discern what is merely contingent and

happens to exist from what is rational and more substantively actual *philosophically*. Thus, Hegel's 'philosophical science . . . in so far as it deals with political science, shall be nothing other than an attempt to *comprehend and portray the state as an inherently rational entity . . . as it ought to be*' (PR, p. 21; see EL, §6R). Hegel's judgements about the relative merits of political states and related spheres are statements about the philosophical rationality of the world: 'To comprehend *what is* is the task of philosophy' (PR, p. 21).²¹ Moreover, Hegel is swift to remind us that the discussion about 'actuality' in the *Philosophy of Right* presented here draws upon his earlier *Science of Logic*.²² A systematic reading of Hegel's *Philosophy of Right* where we interpret this work within the wider context of his philosophical system best highlights these deep connections with explanatory power that also best cohere with Hegel's self-understanding about his project more generally and his philosophical positions more specifically.

Our philosophical appraisals, for Hegel, must relate purely to our current knowledge of the world *as we have found it*. Recall that philosophy looks backwards at the world; philosophy has a historical character. This view is deeply embedded in Hegel's thought and is crucial for understanding his philosophical project more clearly. Hegel argues that every individual is a 'child of his time', and 'thus philosophy, too, is its own time comprehended in thoughts' (PR, p. 21). Philosophy looks to what has come before us and attempts to make best sense of its rationality. But philosophy is limited to presenting us an understanding about what has happened: 'for in history we have to do with the past' (PH, p. 350). While this may assist our comprehension of the present and prepare us for the future to come, Hegel rejects the view that philosophy can declare precisely what the future holds or the end of history. He says: 'It is just as foolish to imagine that any philosophy can transcend its contemporary world as that an individual can overleap his own time' (PR, pp. 21–2). Philosophy is unable to declare how the world should be best understood tomorrow, but only how we might make best sense of it given what we find today. This understanding leads to several sober statements from Hegel about 'philosophy, at any rate, always comes too late'; that philosophy 'paints its grey in grey, a shape of life has grown old, and it cannot be rejuvenated, but only recognised'; and 'the owl of Minerva begins its flight only with the onset of dusk' (PR, p. 23). Such statements are rich with meaning and each speak to the same clearly held view that philosophy offers an understanding about what has passed, philosophy is intrinsically historical, and philosophy must be relatively silent about what the future holds. Hegel's pronouncements about historical progression are made in terms of 'the standpoint of the present day' alone.²³

One implication is that Hegel's present judgement about the relative

philosophical merits of states and other matters is subject to future revision in light of new knowledge. Indeed, any future predictions of a world yet to be are confined to the realm of mere opinions and relative guesswork: 'If his theory does indeed transcend his own time . . . then it certainly has an existence, but only within his opinions' (PR, p. 22). Hegel's form of philosophical appraisal is limited to the knowledge we have today about the world and its objects yesterday. Philosophy always comes too late because it addresses a world forever in the past. Therefore, any judgements about actuality relate to the world as it has been known and not how it will be understood in future. Our philosophical assessments are provisional and open to future revision.²⁴

The philosophical appraisal that Hegel offers is intrinsically historical. Philosophy always looks to the past in order to better understand how our present should be best comprehended. Hegel offers us an analysis of how we should consider subject matters such as freedom and the state in light of the historical record as it was then understood. His pronouncements about historical developments are made within the context of speaking to the world and its objects at that time. Thus, comments about the developmental stages of world history are judgements about the best way, for Hegel, to comprehend world history from the facts before him at that time. Philosophy always looks backwards.

Hegel's remarks about world history must be considered within the context of his philosophical project. To claim that civilisation had reached its zenith in nineteenth-century Europe is nothing more than how the development of world history should be understood given what was known at the time. It cannot be a statement about the final end of world history because philosophical judgements cannot offer any such certainty about the future. Any interpretation that holds that Hegel held the end of history thesis must reject the very core of Hegel's philosophical project and his self-understanding of it. To declare the end of history is to deny that the owl of Minerva takes flight only at the onset of dusk.

IV HEGEL AND THE FUTURE

One argument against Hegel's acceptance of the end of history thesis claims that Hegel could not have accepted this thesis because he rejected the view that history had come to an end. This argument takes one of two different forms. The first form is that world history remains incomplete because some peoples have not yet set foot on its path. For example, Hegel argues that some peoples have not yet entered world history and so remain outside it. These include much of Eastern Europe and the whole of Africa except

Egypt (see *PH*, pp. 96, 98–9, 350). The reasons, then, are that these persons may lack a sufficiently settled narrative past: while there may be oral traditions widely shared, Hegel suggests that the lack of a written tradition is mandatory for a people to have a sufficiently settled story about itself (see *PH*, p. 61). This view may be linked with his idea of law as providing a universally known and more determinate expression of a polity's judgement about right [*Recht*] as law [*Gesetz*] (see *PR*, §§211–12).

The second form of this argument claims that world history is incomplete because Hegel has identified areas where history may continue to evolve. The most commonly cited example is the United States as 'the land of the future' (*PH*, p. 86).²⁵ Such passages suggest that Hegel could not accept the end of history thesis because history had not come to any definitive end.

These are two different forms of a similar argument: that Hegel rejects the end of history thesis because world history is incomplete. One reason is it is incomplete because not all peoples are part of world history yet and their future inclusion may influence the later direction of world history. A second reason is that world history is incomplete because there is more to come from some societies, such as the United States, where history has more work to do.

This argument gets Hegel right for the wrong reasons. Both versions claim that Hegel rejects the end of history thesis because he offers an account about history that remains somewhat open-textured. The position is that Hegel has confirmed some view about the future about the philosophy of history. The problem with this position is that it rejects a feature central to Hegel's philosophical project, namely, that philosophy cannot render any certain judgements about the future. We are faced with a choice. One interpretation denies a core position embedded in Hegel's philosophy supported across all major texts, including the *Philosophy of History* and the *Philosophy of Right*, that coheres with Hegel's self-understanding. This is the interpretation we should reject. Or we may accept a second interpretation offered here that offers an account sensitive to the systematic context of Hegel's philosophy and his clear self-understanding. To reject this second interpretation is to deny Hegel's self-understanding and a central part of his philosophical system. This is to reject too much.

My argument that Hegel rejects the end of history thesis because philosophy is itself historical does not deny that there is an open-texture found in his account. But this is perhaps not found where many have looked. Most have held that Hegel's account may be incomplete because the future direction of world history may develop further, either in the United States or through peoples yet to join. This is mistaken because Hegel cannot declare with any certainty what the future may hold if he is to remain true

to his project. However, this is not to say that Hegel's presentation is complete.

A rarely cited, but instructive, passage is the following: 'I could not pretend that the method which I follow in this system of logic . . . is not capable of greater completeness, of much elaboration in detail; but at the same time I know that it is the only true method' (SL, p. 54). There is nothing said elsewhere that would deny that such a passage does not or cannot be said about texts beyond the *Science of Logic*, such as the *Philosophy of History* and the *Philosophy of Right*. Thus, for example, the presentation of world history in particular stages according to specific determinations may be nothing more than a broad overview capable of much further elaboration and differentiation. Hegel's account may be open-textured, but not in the way that many suppose. In other words, Hegel's views on world history may be incomplete because its logical structure – through which we might better understand world history – may be further developed.

Hegel does provide comments about the future of world history. Its future may include new peoples and directions outside Europe. Any such pronouncements are uttered from the standpoint of making a judgement about history in light of how it has appeared to us in the past. Philosophy looks backwards to better understand our present. But philosophy does not engage in fortune-telling and it cannot render any concrete judgements about the future. From where Hegel sat, America appeared to be the land of the future. This does not confirm that America will live up to such a billing. Nor any other polity. So Hegel's comments about the future must be understood within the clear context that he sets out for them. Hegel does not accept the end of history thesis because it would commit him to reject a central position in his philosophical system. Moreover, this is a conclusion that even a weak systematic reading of the *Philosophy of Right* helps to illuminate and which non-systematic readings have too often overlooked.

V CONCLUSION

This chapter has examined the end of history thesis that is often attributed to Hegel. Many commentators have arrived at this interpretation through their failure to consider Hegel's remarks within the context in which they are presented. For Hegel, philosophy is historical in character: it is a looking backwards after the onset of dusk. Our task is to discern what is rational and actual in the world in light of our present understanding of our world. Our 'present' is ever-changing and forever transitioning itself to our past. Each new day may reveal something different about the rational development of our politics and history. Hegel could never accept that there is any known

final end to history without abandoning his philosophical project. Nor does he. On the contrary, perhaps world history has a final development: we are unable to confirm when this might be reached because we must constantly revise our rational comprehension of the world through what we may understand at each new point in time. We look backwards to better understand our present position, but without any certainty about what may lie ahead. Hegel cannot and does not accept the view that we have reached the end of history. Hegel famously quotes Friedrich Schiller: ‘world history is a court of world judgement [*die Weltgeschichte ist ein Weltgericht*]’ (LNR, §164). But we should view this in its systematic context and recognise that the court of world judgement must always revise its assessments over time. Thus, world history is a court of forever provisional and revisable judgements.

Furthermore, Hegel’s analysis is illuminating as to how we might understand philosophy more generally. If philosophy is about careful and systematic reflection, then perhaps its application may only exert confidence about its conclusions in light of what has already come to be. Philosophy may be the recognition of reason ‘as the rose in the cross of the present’, but perhaps philosophy might only paint its ‘grey in grey’ and await dusk before the owl of Minerva takes its flight (see *PR*, pp. 22–3). This may be a picture of philosophy that some may find unattractive, but it forces us to reconsider what the task of philosophy is and its confidence in addressing substantial issues of our time.

Conclusion

Ever since the publication of Benedetto Croce's *What is Living and What is Dead of the Philosophy of Hegel*, commentators on Hegel's philosophy traditionally conclude their studies with an assessment of the merits of Hegel's project.¹ This study will be no different.

In this book, I have argued for a systematic reading of Hegel's *Philosophy of Right*. This reading is both consistent with Hegel's own self-understanding of his project and offers a more robust interpretation of the *Philosophy of Right*, providing a clear advance on existing studies of this important text. A principal target throughout has been Allen Wood's influential non-systematic reading of the *Philosophy of Right* in his *Hegel's Ethical Thought*. He tells us that his approach 'is, admittedly, to read him in some measure against his own self-understanding; it is nonetheless the only way in which most of us, if we are honest with ourselves, can read him seriously at all'.² One reason why we should read Hegel against his self-understanding is that, for Wood, providing a systematic reading of the *Philosophy of Right* 'would also dictate that you write a book not about Hegel's ethics but about his logic'.³ Thus, it has been a clear task of this book to argue that this view is incorrect. A systematic reading that interprets the *Philosophy of Right* within the wider context of Hegel's greater philosophical system is possible without spending most of our time detailing the system rather than uncovering the arguments of the *Philosophy of Right*. This fact is demonstrated in each of the chapters above. We can, after all, focus on the *Philosophy of Right* whilst adhering to a systematic reading.

A second reason commentators provide for abandoning Hegel's self-understanding is that if his larger system and its logic are found implausible then Hegel's philosophy will be found implausible *tout court*. If we want to rescue parts of Hegel's philosophy, it is then necessary to inoculate these parts from more controversial areas of Hegel's larger system. A non-systematic reading might be contrary to Hegel's stated self-understanding, but it is a necessary life raft we should embrace to preserve what is of value

in his philosophy and let the rest go down with the ship. Thus, Charles Taylor tells us: 'If then, as I say, Hegel's crucial proof in the *Logic* will not carry conviction today, and if this constitutes a refutation of his ontology, what interest can there be in studying his system?'⁴ The question then is that we must reinterpret Hegel in a more acceptable package if he is to be of interest to us today. This perspective is widely held by those endorsing a non-systematic reading of Hegel's work.

Throughout I have avoided a philosophical defence of Hegel's positions. Instead, my focus has been to make explicit a more robust understanding of Hegel's positions on important topics in his political and legal philosophy. I do not offer my reading of Hegel's views as its defender, but only as a far more accurate picture of his views. This reading is successful if it convinces others that a systematic reading provides an improved reading of the *Philosophy of Right*. Its proof is in its pudding, detailed in the preceding chapters. In some of the chapters, the systematic reading looms larger (for example, punishment and family) than others (for example, law and war). In all cases, attentiveness to the structure of Hegel's argument is the secret key to unlocking his views. And just as Hegel so often tells us.

The systematic reading aspires only to provide an improved reading of the *Philosophy of Right* that is consistent to both Hegel's self-understanding of the work and more consistent with the text itself. This reading is nowhere meant to make Hegel's views 'sexier' for fear past philosophers must be constantly repackaged in order to retain our philosophical interest. A systematic reading is warranted because of its ability to make best sense of Hegel's texts, not because it attempts to hide from view any shortcomings lest we lose interest in his work.

This objection to a systematic reading – namely, that it should be avoided because it makes Hegel less acceptable to a modern audience even if it offers us a more accurate interpretation – I find deeply disturbing. We should hardly be surprised to find that earlier philosophers offer claims that later philosophers find unconvincing. It is proof that philosophers can improve their craft over time. The fact that Hegel accepts positions we would reject today is true in an obvious sense. However, it is equally the case that no matter our worries with his positions we continue to find his philosophical contributions worthy of our attention and even our prolonged fascination. This is no less true of other greats in our philosophical pantheon. For example, Plato remains one of the finest exemplars of philosophy. This is despite wide rejection of his defence of philosopher-kings, rejection of democracy, and promotion of 'Forms'. If Plato can retain pride of place within our philosophical pantheon, why then must we provide inaccurate interpretations of Hegel's views out of fear that these views will lose their

interest if anyone finds a flaw? It strikes me that if interest in Plato's views can withstand such criticism, then this can also be true of Hegel's views. In fact, if philosophers genuinely believed flawed views unworthy of attention, then we should be surprised to find any journal articles or books left to read: after all, these normally take as their starting points improvements upon the less than satisfactory efforts of others. A lack of interest in improving upon the perceived mistakes of others is perhaps a lack of interest in philosophy itself. Taylor and others are simply mistaken to suppose we need to perform philosophical surgery on Hegel's views in order to retain our interest in them.

What is then my answer to what is living and dead in Hegel's philosophy? One response I am sympathetic with is offered by Michael Rosen who claims the answer is simply 'nothing'.⁵ Our reasons for spending any time with Hegel's views are reduced to (a) its usefulness in understanding twentieth century German philosophy, (b) its general importance within the history of ideas, and (c) we learn something about our own views in considering their relation to Hegel's views.⁶ We might add to this list a fourth reason, namely, (d) the ability to interpret Hegel's work provides an excellent philosophical training: few major figures match Hegel's complexity. That said, my sympathies with Rosen's pessimistic assessment do not lead me to fully agree with it.

On the cover of this book's first edition was a picture of Tynemouth Castle, located just a few minutes' walk from where I live.⁷ I took the photograph at dusk one bitterly cold evening in March. It was perhaps a surprising choice for a book on Hegel's political philosophy, but I think a most appropriate one. Hegel's political philosophy shares much in common with Tynemouth Castle. Not unlike this castle, Hegel's work remains an important part of our philosophical landscape. Our world would be empty if lacking its presence. In fact, we benefit each time we gaze up at it resting high on a hill overlooking the water below. Hegel's philosophy is a place we enjoy visiting from time to time for the many reasons highlighted by Michael Rosen above. We become better philosophers when we engage with Hegel's philosophy even if we find his views could be improved upon. It is for this reason that, like Tynemouth Castle, Hegel's philosophy is somewhere we enjoy visiting, but no longer a place we can call home. This is not to say that we do not profit each time we examine it. Like a castle, Hegel's philosophy was once the main seat of life and activity. Now it is a reminder of a past time, but one that informs our present and, in fact, is an integral part of it. Thus, Hegel's political philosophy provides contributions to our considerations of contemporary discussions of political philosophy even if we are often unable to accept a more accurate understanding of Hegel's

recommendations in full. Hegel's *Philosophy of Right* is dead and yet it remains alive to our world today, not unlike a ruined castle on a hill that continues to attract regular attention, thus bringing benefits to those who visit its grounds.

This book has provided a systematic reading of Hegel's *Philosophy of Right*. It is my hope that it will help transform the 'debate' (now a stand-off) between so-called 'metaphysical' and 'non-metaphysical' readings of Hegel into a unified reading of Hegel's work that understands an importance in interpreting this work within the context of his larger philosophical system. Additional work remains to be done in developing systematic accounts of each part in Hegel's mature system. Moreover, others may find themselves more satisfied with a stronger systematic reading than provided here. What I hope is convincing in my account is the need to *take the system more seriously*. This system plays an explanatory role in interpreting any individual part of Hegel's system. I have attempted to demonstrate that here using only a general and relatively uncontroversial understanding of Hegel's project. If I am correct, a major implication of this reading is that commentators can no longer adopt a non-systematic reading of Hegel's *Philosophy of Right* that aspires to offer an accurate interpretation of this text that it is understood largely in isolation to the Hegel's larger philosophical system. Only systematic readings of Hegel's *Philosophy of Right* can provide a serious and scholarly interpretation of Hegel's political philosophy.

Reply to Critics

I INTRODUCTION

I have been delighted by warm reception and critical attention that *Hegel's Political Philosophy* has received since the first edition appeared in 2007.¹ Several important reviews have been published over the last five years that have challenged me to consider once more the promise of a systematic reading for Hegel's philosophy and the case studies used to exemplify the need for this new approach.² While I have not been persuaded that my approach and case studies require substantive revision, there are several arguments and positions worth revisiting. This chapter will first outline the general parameters of the systematic reading that I offer before considering particular criticisms that have arisen since the publication of the first edition. My aim is to provide further illumination of my arguments in response to several notable challenges.

II A MISCONCEIVED DEBATE

Hegel's *Philosophy of Right* is more than a major work of political and legal philosophy; it is a battleground for two different interpretive approaches. There are two different interpretative approaches to understanding Hegel's *Philosophy of Right*. These are the metaphysical and the non-metaphysical readings. The former often highlight Hegel's insistence that some political states may be considered more 'true' or 'actual' than others. This reading also often emphasises the special place of religion in Hegel's philosophical system, for example.³ In contrast, the non-metaphysical reading argues that such an interpretation is not only unattractive, but perhaps even unnecessary because Hegel's views on 'actuality' and 'actualisation' are less controversial than traditional metaphysical readings of Hegel's philosophy have claimed.⁴ Commentators must choose between these competing camps and interpretations of Hegel's work are conceived within these

approaches. Importantly, each reading claims that its approach best captures Hegel's philosophical importance. But would Hegel endorse either the metaphysical or non-metaphysical reading?

The problem is that this debate rests on a central misconception about Hegel's philosophy. The debate is characterised as a disagreement about the role and perhaps the very existence of metaphysics in Hegel's philosophy. But this is a false impression. It is virtually nowhere in doubt that metaphysics is present in Hegel's philosophy, including his *Philosophy of Right*. Therefore, the debate between a 'metaphysical' and 'non-metaphysical' reading of Hegel's works is not a debate about whether these works contain metaphysics. The characterisation of the debate invites a false impression about what is at stake.

The present disagreement has developed into a debate about how strongly metaphysical – and, more precisely, how Platonist – Hegel's philosophy is, in fact. Proponents of the non-metaphysical reading of Hegel's philosophy defend the distinction between metaphysics and ontology. Ontology is a distinctive part of metaphysics, but understood as a more reasonable or less controversial claim.⁵ References to 'metaphysics' refer to less reasonable or more controversial claims. Non-metaphysical readings of Hegel's work claim that there is an ontology present, but more controversial 'metaphysical' claims may be excised if not avoided altogether. The greater promise of such non-metaphysical readings is their promotion of a more attractive interpretation of Hegel's philosophy through arguments designed to demonstrate that Hegel's claims are more compelling than is often assumed. It must be said that the non-metaphysical reading has contributed to a welcome renewal of Hegelian scholarship and a wider reception of his philosophy. Defenders of the metaphysical reading are either not persuaded that certain claims are too controversial as traditionally understood or that their approach yields a more accurate interpretation of Hegel's philosophy even if less attractive to contemporary readers.

There is a debate between two competing camps that offer different approaches to the interpretive study of Hegel's philosophy. These camps are self-identified as the metaphysical and non-metaphysical readings. The problem is that this characterisation gives a false impression about what is at stake. This debate is not about whether Hegel's philosophical account contains metaphysics. Instead, the central issue is about the competing demands of addressing the contemporary attractiveness of Hegel's nineteenth-century philosophy while offering an accurate interpretation of his works.

III THE SYSTEMATIC AND NON-SYSTEMATIC READINGS OF
HEGEL'S PHILOSOPHY

My *Hegel's Political Philosophy* argues that the debate between metaphysical and non-metaphysical readings is best understood as a disagreement between a systematic and non-systematic reading of Hegel's texts. The systematic reading claims that Hegel's texts should be understood within the context of his philosophical system. This has the deep interpretive attractiveness of adhering to Hegel's demonstrably clear self-understanding of his project. For example, Hegel says of his *Philosophy of Right*:

[It] is a more extensive, and in particular a more systematic, exposition of the same basic concepts which, in relation to this part of philosophy, are already contained in a previous work designed to accompany my lectures, namely my *Encyclopaedia of the Philosophical Sciences*. (PR, p. 9)

The *Encyclopaedia of the Philosophical Sciences* offers an outline of Hegel's philosophical system. The *Philosophy of Right* is intended to be an elaboration of one specific part of this system. Hegel is clear that his views 'can only be justified by the exposition of the system itself'. Moreover, the different parts of Hegel's philosophical system are meant to relate to each other in a particular view in keeping with his speculative logic presented in the *Science of Logic*. Hegel intends the *Philosophy of Right* to be understood within the context of his larger philosophical system and the speculative logic that underpins it. The systematic reading of Hegel's *Philosophy of Right* claims that we should interpret this text as Hegel clearly intended in order to come closest to his self-understanding of its philosophical merits. This reading also claims that Hegel's philosophical system has explanatory power in understanding his work. Note, furthermore, that the systematic reading of Hegel's texts is not exclusive to the *Philosophy of Right*: we may adopt a systematic reading of other texts, too.

The non-systematic reading of Hegel's *Philosophy of Right* claims this text should be read largely independently of his philosophical system. The philosophical system and its speculative logic is often believed to be too controversial or indefensible. A non-systematic reading of the *Philosophy of Right* is an attempt to inoculate Hegel's political philosophy from the more problematic elements in his thought. This reading denies the explanatory power of Hegel's philosophical system in interpreting the *Philosophy of Right*. While the non-systematic reading is contrary to Hegel's clearly stated self-understanding, it is argued that Hegel was mistaken about the relationship between the *Philosophy of Right* and his system: it is argued that 'Hegel's

great positive achievements as a philosopher do not lie where he thought they did'.⁶ Nor need we read understand Hegel's texts in the way he intended. For example, Frederick Neuhouser argues that 'even though Hegel's social theory is undeniably embedded within a more comprehensive philosophical vision . . . it is possible, to a surprisingly large extent, to understand his account of what makes the rational social order rational and to appreciate its force even while abstracting from those more fundamental doctrines'.⁷

The systematic and non-systematic readings best address the debate between the so-called metaphysical and non-metaphysical readings. The proponents of the metaphysical reading most often argue that Hegel's claims must be understood within a larger systematic context notwithstanding other differences.⁸ The approach adopted by most metaphysical readings is best understood as a systematic reading of Hegel's texts. Similarly, most non-metaphysical readings are best understood as offering a non-systematic reading of Hegel's text.⁹

My *Hegel's Political Philosophy* defends a weak systematic reading of Hegel's *Philosophy of Right*. The systematic reading is weak insofar as I begin by offering a general overview of Hegel's system and its logic that will later help to inform my interpretation of several different areas of Hegel's political philosophy, including property, punishment, morality, family, law, monarchy, and war in chapter-length treatments. It has been argued that we should 'buckle down to the study of the text of the *Philosophy of Right*', and that taking Hegel's philosophical system more seriously might stand in the way of our understanding of his political philosophy. *Hegel's Political Philosophy* demonstrates that we may adopt a systematic reading and that it might help to better illuminate the arguments in the *Philosophy of Right*. I argue that the rich literature contains important interpretive errors that a systematic reading more clearly identifies and often corrects. My purpose is to show how Hegel should be understood, but not necessarily how his ideas might be best defended.¹⁰ A central concern is that efforts to promote Hegel's ideas through non-systematic readings have come at the cost of sometimes moving too far from what I believe more accurately captures his philosophical positions. A systematic reading is possible and preferable to competing interpretations. Moreover, this reading offers new insights that are closer to Hegel's self-understanding.

IV REPLIES

It is a great pleasure to have received such close scrutiny from many of the scholars that I most admire and from whom I have learned immeasurably.

My reply cannot offer a full response to the many constructive criticisms that I have been fortunate to receive. However, I will focus my attention on the central concerns raised from each. My hope is to provide more clarification and further argumentation on important issues that illuminate features pertaining to my reading and its results beyond what I originally presented in *Hegel's Political Philosophy*.

(A) *Reply to Redding*

Paul Redding raises several important concerns regarding my systematic reading of Hegel's *Philosophy of Right*.¹¹ The first concern is that the systematic reading is uneven in its application. We might expect a systematic reading to draw special attention to the relation between a text and a larger philosophical system. This reading would demonstrate how the larger system might inform a particular text. The concern is that many of the interpretations on offer in *Hegel's Political Philosophy* focus on the internal systematic relations within one text. For example, Redding notes that my arguments in chapters on property and punishment address how the section 'Abstract Right' provides only a partial picture of Hegel's more complete theories about property and punishment. His more complete theories require that we take account of his treatment of property and punishment elsewhere, such as in the later section 'Ethical Life'. While I may provide a convincing explanation of Hegel's positions on these topics, it is unclear how this 'systematic' reading is systematic in a more substantive sense.

Redding's criticism draws attention to two different perspectives provided by a systematic reading. The first perspective is a systematic reading that considers two or more texts and interprets them from the standpoint of their systematic relation. For example, such a reading might identify how certain features in the wider philosophical system as found in one text usefully engage with features found in a second text. More specifically, it might explain how the distinctive argumentative structure of the *Philosophy of Right* is informed and explained, at least in part, with reference to the *Science of Logic* and *Encyclopaedia of the Philosophical Sciences*. This systematic reading addresses the external relation between Hegel's texts that are located within his larger philosophical system.

A second perspective is a systematic reading that considers two or more ideas within a single text from the standpoint of their systematic relation. One illustration I offer is how Hegel's theory of punishment is best understood when we consider his discussion in 'Abstract Right' in systematic relation to his more substantive comments in 'Ethical Life'. This second perspective addresses the internal systematic relation within Hegel's texts.

Redding correctly identifies these two different systematic perspectives. One concern is that my systematic reading may be less distinctive if much of its focus is internal rather than external. This is because an internal perspective centred on a single text bears a strong resemblance to the non-systematic reading that I am so quick to criticise. Moreover, there are some examples offered, such as my treatment of Hegel's theory of punishment, that appear to offer perhaps a more thoroughgoing treatment of Hegel's views, albeit a treatment that is not clearly systematic.

The distinction between an internal and an external application of a systematic reading is illuminating and interpretively useful. While I identify a weak and a strong version of the systematic reading, it might have been helpful if I had devoted more attention to this external and internal distinction as well. One question is whether my examples, such as the discussion of Hegel's theory of punishment already noted, are consistent with a systematic reading as presented. I believe they are. This is because the systematic consideration of Hegel's views on punishment point beyond this text as well. For example, the *Philosophy of Right* is not constructed like most other philosophical works. Each section relates to one another in a particular dialectical way. Likewise, each chapter relates to other chapters in a similarly distinctive dialectical way. And so on. Together, these parts form an explanatory structure that is implicit in the *Philosophy of Right* and more explicitly defended in the philosophical system that Hegel references in support. Furthermore, the presentation of punishment in 'Abstract Right' assumes conclusions reached in 'Subjective Spirit', namely, the existence of the free will and the need for it to become grounded. The systematic reading of Hegel's *Philosophy of Right* not only interprets its feature within the wider context of Hegel's larger philosophical system, but the systematic reading interprets this text's parts within the distinctive dialectical context that Hegel presents. In contrast, a non-systematic reading of Hegel's *Philosophy of Right* would consider this text in general isolation from his philosophical system and interpret each section of the text in an atomistic way; the non-systematic reading moves section to section in a non-systematic way where each part is considered in its own place and often without consideration of its systematic relation *within* the text and *beyond* it.¹² Therefore, a systematic reading can offer a compelling interpretation that provides an internal as well as an external perspective. Such a reading is no less systematic for it. This external/internal distinction is useful to highlight the different perspectives that are made possible by a systematic reading and I am indebted to Redding to clarifying the need for this elaboration.

Redding raises a more potentially damaging concern. Hegel scholars

know well the old yarn that if you asked two Hegel scholars for their interpretations, then you would be likely to receive three different views. This oft-repeated line speaks to the rich multiplicity of reasonable interpretive differences among Hegel scholars concerning various features of his philosophical writings. For example, Redding correctly argues that Hegel's logic and system have been interpreted differently by many leading commentators. The problem is that much hinges on how they are understood for the systematic reading. This is because the systematic reading is premised on the fact that there is an identifiable philosophical system. This raises many questions, including the worry about to what extent are systematic readings reliant on potentially controversial interpretations of Hegel's philosophical system? There might be as many different systematic readings of Hegel's theory of punishment as there are systematic readers. *Hegel's Political Philosophy* devotes a single chapter to the logic and system. However plausible its arguments, one chapter cannot hope to end all, nor even most, interpretive disagreements about how the system should be understood. Much more should then be said about how Hegel's philosophical system should be interpreted to bring greater clarity to where there is often disagreement before we might claim to have a more viable 'systematic' reading of Hegel's text. Moreover, Redding makes clear that this matters for many of the applications of my systematic reading in several cases, such as my discussion of Hegel's views on the constitutional monarch.¹³ Failing to clarify various interpretive issues concerning Hegel's understanding of logic and his philosophical system may undermine the completeness of systematic readings of the *Philosophy of Right*. Perhaps a systematic reading should ultimately be the winning side in contemporary interpretive battle: the concern is that it cannot be unless more is clarified at a more foundational level.

Hegel's philosophical system and its logic are notoriously controversial. Much of the more recent popularity of his work has been possible by avoiding deep engagement with these areas of his thought to some degree. The non-systematic (or so-called 'non-metaphysical') reading has done us all a great service in drawing greater attention to Hegel's philosophy, albeit at an interpretive cost.

My concerns are at least twofold. First, I am concerned that the non-systematic reading is too far removed from a more accurate understanding of Hegel's philosophy. The cost of popularity is a somewhat distorted interpretation. *Hegel's Political Philosophy* attempts to provide a more accurate interpretation to correct this problem that has troubled me since first reading Michael Rosen's *Hegel's Dialectic and its Criticism* in graduate school.¹⁴ Secondly, I am also concerned about the oft-stated objection that

taking the philosophical system seriously would entail writing a book about the system and its logic rather than Hegel's political philosophy. My aim was to try to correct what I have perceived as somewhat distorted interpretations of Hegel's *Philosophy of Right* by demonstrating that it is possible to take the system seriously and write a book about political philosophy.

Hegel's *Political Philosophy* offers a 'weak' systematic reading of the *Philosophy of Right*. This reading accepts what I believe is a relatively uncontroversial position on particular substantive issues concerning Hegel's philosophical system. These issues pertain to the philosophical structure of Hegel's system and its presentation in various texts, the philosophical terminology employed, and how the different parts of the system relate to one another. For Hegel, part of the argument must be extracted from how different parts fit together: the structure has explanatory power. On most accounts, 'Hegel is the most methodologically self-conscious of all philosophers in the Western tradition'.¹⁵ Various terms appear in multiple places and often develop in content with the text. They must be apprehended together to gain greater clarity into their character and the role they play in helping us to grasp Hegel's positions. After presenting a chapter that provides a general overview of the logic and system, I then move on to demonstrate the different ways this perspective may usefully inform our understanding of Hegel's positions. The case studies I offer are examples of how a systematic reading may offer an improved understanding of the *Philosophy of Right* and how such a reading offers new interpretations about many different issues.

I avoid defending a 'strong' systematic reading. My position remains that the primary goals are to make the case for a systematic reading and show how it might improve our understanding of the *Philosophy of Right*. If the systematic reading and its results are attractive, then others are invited to join me in further elaborating the systematic reading of other texts and working out a more thick systematic reading that might better address the concerns that Redding identifies. So I do not disagree that my account leaves open many important controversies concerning the interpretation of Hegel's philosophical system and its logic. My aim was not so much to win all future battles as to change the debate. We are not locked in a debate between metaphysical and non-metaphysical readings, but rather systematic and non-systematic readings. This fact about the nature of the present debate is important. Furthermore, the first case has now been offered for an explicitly systematic reading of Hegel's texts. It is my hope that the reading will draw others into further developing the richness of the systematic perspective and its application to the *Philosophy of Right* and beyond. I have Redding to thank for his penetrating insights that have

pushed me to consider these features more substantively. For this, I am deeply grateful.

(B) *Reply to Wood*

Hegel's Political Philosophy notes in the conclusion that a principal target throughout is Allen Wood's *Hegel's Ethical Thought*. I am particularly indebted to Wood for this book and related work for opening the richness of Hegel's philosophy to me for the first time. His *Hegel's Ethical Thought* was a source of particular inspiration for many years. Indeed, it was the long, torturous reflection on what might be improved in this account that led me to produce my own work on Hegel. Some say that imitation is the greatest form of flattery. In philosophy, sustained engagement is perhaps the most praise we might offer. If this is true, then *Hegel's Political Philosophy* is a long way of offering my thanks and appreciation to Wood for inspiring me to think more carefully about Hegel. Of course, Wood may wish I had thought more carefully still.

Wood does not reject the view that Hegel intends his *Philosophy of Right* to be understood systematically.¹⁶ Instead, Wood rejects the view that we ought to allow our interpretations of the *Philosophy of Right* to be held hostage to Hegel's self-understanding. The problem is that Hegelian ideas live on though his speculative system lies in ruins. If we believe Hegel to be worth reading and learning from, then we should endeavour to appropriate his positions in a sympathetic way that yields them open to defence rather than gives the game away too quickly. The danger of a systematic reading is that the attempt to grasp accurately Hegel's positions in terms of his self-understanding may readily undermine their contemporary attractiveness and leave Hegelian philosophy on the trash heap of philosophical history. If we care about Hegel's ideas, then we view Hegel through our eyes and move beyond his mistaken philosophical system. Few take this system seriously and uncritical acceptance undermines the philosophical attractiveness of Hegel's ideas. Likewise, we should be critical about Hegel's system if we wish to mine it for items of philosophical interest. It is, then, a mistake to take Hegel at his word for more reasons than one. The systematic reading may 'succeed' in offering an interpretation that is closer to Hegel's stated intentions, but at the cost of presenting an indefensible philosophy that will attract little interest.

Wood's criticism is sustained and contains much compelling force. Why argue for others to accept an interpretation that may render Hegel's philosophy less attractive? The worry is that the systematic reading may do precisely this. The systematic reading reunites Hegel's now rehabilitated

Philosophy of Right with its still unpopular and controversial philosophical system. If this reunion leads us to a more defensible position, then perhaps this move might be welcome. However, *Hegel's Political Philosophy* is not out to popularise the new interpretations on offer, but rather to highlight that a new interpretative approach to the study of Hegel's texts is on offer and that it renders interpretations that are closer to Hegel's self-understanding with greater textual support. The project is to present a more *Hegelian* Hegel warts and all. But why keep the warts if they can be excised?

I accept the general difficulty of elucidating any 'accurate' interpretation of a text. My focus has been to centre on Hegel's explicit self-understanding in opposition to much in the literature relating to his *Philosophy of Right*. There are deeper questions about how far an author's self-understanding should play in philosophical interpretation. I draw attention only to what is fairly uncontroversial, namely, that Hegel argues his *Philosophy of Right* should be understood within the context of his larger philosophical system. I attempt to demonstrate what this systematic reading of the *Philosophy of Right* might look like and how it relates to our understanding of various positions. This is a project that has never been undertaken as comprehensively as *Hegel's Political Philosophy*. So one purpose is to offer for the first time a comprehensive interpretation of the *Philosophy of Right* from the perspective of a systematic reading.

But I have not presented a systematic reading of Hegel's political philosophy to assist critics in undermining its philosophical importance. I believe Hegel's philosophy has deep problems and I also believe Plato's philosophy has deep problems, too. However, I do not accept that they must lack problems to possess philosophical interest. The systematic reading may reignite concerns about the attractiveness of speculative logic, but it remains useful in highlighting new insights into Hegel's positions that may reveal fruitful avenues for future philosophical endeavours. A second purpose of my project is to offer several new interpretations of various positions in Hegel's *Philosophy of Right*. A systematic reading has value as a new interpretation and for presenting new perspectives on familiar issues, such as punishment or the family.

While I argue for a new approach to the study of Hegel and present several new interpretations, I have stopped short of offering a complete defence of these positions as philosophical positions – although I defend each as a position closest to the systematic reading of Hegel's philosophy. The reason for this was to avoid diluting the central message. I did not set out to show that I might outperform non-systematic readings in making Hegel's philosophy more attractive. Indeed, a systematic reading that is closer to Hegel's self-understanding may inevitably be less attractive in some

respects. I did want to show it was possible to write a book about the *Philosophy of Right* in relation to Hegel's system and logic while remaining closely focused on his political philosophy throughout. I continue to believe that I succeed in this task. I further believed that the standard characterisation of the interpretive debate between metaphysical and non-metaphysical readings misconceived the true difference between them – and I continue to believe that I succeeded in this task, too. I hope that others feel compelled to apply a systematic reading to other parts of Hegel's philosophy beyond the *Philosophy of Right*. It remains too early to tell how successful I have been in this task. Finally, the presentation of new interpretations of Hegel's positions has opened up several fruitful avenues for future work. While Wood and I disagree, I believe there is much promise in the theory of punishment Hegel offers. My interpretation argues that he accepts a unified theory of punishment bringing together retribution, deterrence, and rehabilitation into a unified framework. This idea can be reconstructed and developed for improved contemporary relevance and to speak to further penal elements, such as restorative justice and expressivism.¹⁷

Wood is generally more optimistic about my case studies than my interpretive approach. I am extremely grateful to him for raising several interpretive issues about my overall approach and specifics pertaining to individual chapters. Yes, one goal is to present a new interpretative perspective on Hegel's philosophy. This is the project of the systematic reading. However, a further goal is to offer compelling interpretations of Hegel's philosophical positions. I accept that a stronger systematic reading might clarify certain relations between my positions and Hegel's system. But I am deeply pleased to find that Wood has found much that is novel and useful in my account. Perhaps our differences are not as wide as I had first imagined, although many deep disagreements remain. This only further inspires me to endeavour much more towards developing a more thick account that might address Wood's excellent criticisms more robustly. I am deeply indebted to him for providing such a perceptive and engaging account that has challenged me to say much more about central issues in my position.

(C) *Reply to Rosen*

Michael Rosen correctly highlights the many problems with non-systematic readings.¹⁸ In essence, these readings tell us only part of Hegel's story. One part concerns the positions that Hegel defends in his *Philosophy of Right*. The missing second part is why Hegel chooses to these positions and the account

he offers in defence. We risk losing sight of why Hegel holds the views he defends if we avoid a systematic reading of his work. This is because a systematic reading illuminates best Hegel's self-understanding of his philosophical project.

Rosen argues beautifully that we should leave Hegel's philosophy 'as a magnificent monument from a bygone age'. This speaks to my choice of cover. Heidelberg Castle is a common choice for many books pertaining to German Idealism, not least because many leading figures once taught at Heidelberg University, including Hegel. The city's famous castle sits majestically atop a hill in clear view and has been the subject of much attention since it was built in the early thirteenth century. It has since fallen into disrepair, but this seems only to improve its status as a 'must visit' site for anyone in the area.

My original cover depicts a second and older ruined castle that is closer to home, Tynemouth Castle.¹⁹ The particular representation of a castle used is unimportant. But what is important is the idea that Hegel's philosophy is similar to a ruined castle on a hill. Both were once the seat of much activity, but now neither are places we may call home. This does not mean that they lack contemporary value, but rather that we should engage with them in context. It seems unimportant to me whether we must argue that Tynemouth Castle is a great castle rather than a place of historical interest from which we may still learn. Similarly, I find much that is attractive about Hegel's philosophy as an object of rich historical and philosophical interest – even if I find it deeply flawed. I believe a systematic reading of Hegel's philosophy helps us to get closer to a more accurate understanding and this may usefully identify new perspectives on philosophical positions. Those looking to defend Hegel's philosophy should perhaps turn their efforts to defending reconstructed positions indebted to Hegel's philosophy: instead of defending Hegel's views, perhaps our efforts should be to defend Hegelian-inspired views. The owl of Minerva has taken flight more than once. Nevertheless, we learn something important about ourselves and our relation to the world through engaging with Hegel's philosophy.

I am especially indebted to Rosen and his work. His *Hegel's Dialectic and its Criticism* provided a major turning point in my understanding of Hegel's philosophy, and it helped confirm in my mind the need for a systematic reading. It also confirmed my judgement that Hegel's philosophy may be problematic, but this does not mean that it lacks deep philosophical value as well. I am extremely grateful to Rosen for inspiring me in my earlier years and for now offering rich insights into Hegel's philosophy and its contemporary relevance.

(D) *Reply to Tunick*

Mark Tunick has been a source of much of my interest in relation to the legal and political philosophy of Kant and Hegel for many years. His criticisms relate more to the specific case studies employed in my account rather than to the systematic reading more generally, although he has interesting comments on this as well.²⁰ He focuses on three particular cases, namely, my discussions of Hegel's positions on punishment, monarchy, and war. I will consider each in turn.

First, Tunick is critical of my account of Hegel's theory of punishment (see Chapter 3). One argument is that my view of retributivism may not cohere with the views of others that many consider to be retributivists, including Hegel. For example, Tunick notes that I understand retributivism as entailing a central link between moral desert and punishment. A person must be deserving of punishment on account of his moral responsibility relating to a crime. Where this link is absent, then this is not a retributivist position. Tunick argues that Hegel accepts negative retributivism: this is the idea that a retributivist desert is necessary, but insufficient, to support punishment. While persons must at least deserve punishment, the particular form this punishment might take may be determined by consequentialist considerations. Elsewhere I expose negative retributivism as an incoherent view about retributivism.²¹ The question, then, is whether I have mischaracterised Hegel's account.

It is highly illuminating that Tunick's criticism fails to take any account of what Hegel says about punishment in one of the texts he believed most essential to understanding his considered views, the *Science of Logic*. I repeat what Hegel says there:

Punishment, for example, has various determinations: it is retribution, a deterrent example as well, a threat used by the law as a deterrent, and also it brings the criminal to his senses and reforms him. Each of these different determinations has been considered the *ground of punishment*, because each is an essential determination . . . But the one which is taken as ground is still not the whole punishment itself. (SL, p. 465)

This passage makes clear that Hegel understood his theory as a *unified* theory of punishment that brings together different penal principles within a coherent framework. Hegelian punishment is grounded by retributivism, but it is more than this. Either Tunick must reject some passages in favour of others found elsewhere on some ground that Hegel would almost certainly reject, or Tunick should become more persuaded that a systematic

reading may better account for Hegel's views in the *Philosophy of Right* and how they should be interpreted within the wider context of directly relevant remarks found elsewhere.

Hegel does not endorse retributivism as conceived by Tunick. This is because Hegel links the amount of punishment to the threat to civil society of a crime (see *PR*, §218, R, A). This fact about how punishment is determined and distributed is best understood only when we consider Hegel's statements in light of his discussion post-Abstract Right. The reason is that any compelling theory of punishment requires some account about features that are absent in Hegel's Abstract Right. For example, there are no laws and, hence, no legal crimes in Abstract Right. Nor are there legal and political institutions. Nor is there a political community. Nor has Hegel established what is moral responsibility and how it should be understood. Discussion on each of these points (laws, crimes, institutions, community, moral responsibility) all come after Abstract Right. It is then a most curious retributivism that lacks all these essential components. Tunick notes that this charge may be unfair because there are remarks in Abstract Right that are suggestive of what is to come later. He cites Hegel's claim in §99 Remark about understanding punishments 'in their proper context'. However, the central problem remains: the presentation and explanation of this context is found much later in his discussion of civil society. Moreover, Hegel notes in this later discussion that it is an action's 'danger to society' that informs the 'magnitude of the crime' and its punishment rather than a mere violation of abstract contractual stipulations agreed between two persons (see *PR*, §218). So it is not the case that Hegel is a retributivist as conventional wisdom would have it. Nor is it the case that his account of punishment is complete in whole or in part as found in Abstract Right. Many distinguished scholars have overlooked this fact, but perhaps part of the reason for this is because there has not been a previous attempt at offering a systematic reading of the *Philosophy of Right*.

Tunick adds that my understanding of retributivism would omit others beyond Hegel, such as John Mabbott, who are often believed to be retributivists.²² For Mabbott, punishment is deserved because a crime has been committed and not necessarily because a moral wrong has transpired. Tunick overlooks the historical place that Mabbott occupies in British political thought. This is perhaps inevitable given the general inattention that British Idealism has too often received, although I am pleased to see interest in this tradition increasing steadily. While Mabbott was not a British Idealist, he did work at a time when British Idealism remained a major influence in British ethical and political philosophy through the work of figures such as R. G. Collingwood, Sir Hector

Hetherington, John Henry Muirhead, John Stuart Mackenzie, and Michael Oakeshott despite its steep decline in other areas of philosophy.²³ Most British Idealists defended the view that punishment should be a response to crime and not immorality well before Mabbott. Moreover, most British Idealists defended a unified theory of punishment that brought together retributivism, deterrence, and rehabilitation.²⁴ It is reasonable to believe that British Idealists may have come to adopt this view given its presence in Hegel's philosophy (as I have argued) and the major influence Hegel's philosophy has been on the development of British Idealism. Mabbott's particular understanding about punishment may owe much to the arguments advanced by British Idealists, then still a major influence in this area, and should be considered in this context.

Tunick next considers Hegel's monarch and rejects my claims that this monarch is not a rubber stamp, citing his earlier paper on this topic.²⁵ The conventional reading endorsed by Tunick is that Hegel's monarch is relatively powerless and that his person is of no significance. I challenge this account by first highlighting that, for Hegel, the person does matter. Not only must he possess some expertise in governing, but it is important that the state is led by a male. Furthermore, there are areas such as foreign policy where treaties are agreed by the monarch and the relevant member of the cabinet. This leads Tunick to believe that I have undermined my argument. But this is a mistake. It is not my argument that Hegel's constitutional monarch is a tyrant or dictator. So it is not a problem for my account to provide examples like this where the monarch lacks complete discretion. Instead, my argument is that the monarch is more than a rubber stamp; that the king matters more than often thought. Hegel's monarch is not only symbolic, but he possesses political power. It is not up to his cabinet members alone to agree treaties and the like – nor need the monarch accept cabinet recommendations or risk losing authority.

Tunick then examines my discussion of Hegel and war. Here we seem to agree on the whole. We both reject the conventional view that Hegel believes war is something that should be advocated even though war may yield certain positive results. Tunick claims that I have missed a trick and could have developed my account further in relation to Hegel's logic if I had addressed war as a form of determinate negation. While I would still defend my account, I am ready to concede that there may be more to be said in favour of a stronger systematic reading than I have offered and I am grateful to Tunick for helping to make this case more forcefully.

Tunick concludes by questioning why I should offer an interpretation that brings Hegel's controversial philosophical system back into the picture where this is likely to undermine attempts to make Hegel's political

philosophy more compelling for contemporary audiences. Of course, not everyone rejects Hegel's system and its logic.²⁶ But let's say everyone did. I cannot see why we must all be Platonists in order to benefit from a close study of Plato's texts. Nor can I see why I must accept a particular religious doctrine in order to draw from it certain ideas that may have relevance and meaning of substantive importance for me. There is a value in coming to terms with the texts themselves and in their own lights. We need not conjure up interpretations that may at times differ significantly from a text and any intended meanings in order to benefit from its study. So why treat Hegel's *Philosophy of Right* in this way? My position remains firm: many scholars interpreting this text, and especially from the standpoint of the non-systematic (and often non-metaphysical) reading, offer us a partial and sometimes misleading interpretation of the *Philosophy of Right*. If we wish only to discuss repackaged ideas designed to convince particular audiences, then our analysis should be presented as an *Hegelian*, and not as Hegel's, political and legal philosophy. Nor should this be problematic. Perhaps too many claim to offer a position best characterised as Hegelian rather than Hegel's view. My *Hegel's Political Philosophy* is one attempt to further clarify the latter to better identify how I believe scholarship on Hegel's philosophy might be improved. Tunick has helped push me on a number of issues such as these and many others over the years for which I am deeply grateful.

V CONCLUSION

I briefly conclude by thanking my critics for taking the time to providing me with illuminating constructive remarks on my work, especially Redding, Rosen, Tunick, and Wood. They have pushed me to better elaborate central positions presented in *Hegel's Political Philosophy* and which have helped improve my understanding of the systematic reading of Hegel's philosophy and its future promise. I warmly thank each of them for these comments and hope I have done justice to their most important concerns, although I will reflect much more on all points raised for some time to come. And I am all the better and more grateful for it.

Hegel's Political Philosophy presents a new approach to the study of Hegel's philosophy. It is my aim to identify the systematic reading of his philosophy and how it might be applied to improve our understanding of his views. I hope others will become inspired to develop further the systematic reading of Hegel's texts and the new interpretations this reading helps to reveal for the *Philosophy of Right* and beyond.

Notes

Introduction

1. The full name of this text is the *Groundwork of the Philosophy of Right or Natural Law and Political Science in Outline* (*Grundlinien der Philosophie des Rechts oder Naturrecht und Staatswissenschaft im Grundrisse*). The common abbreviated name for this text is 'the *Philosophy of Right*' and I will adopt this shorter title throughout. My discussion of the *Philosophy of Right* follows the vast majority of the most important contemporary work on this text by exclusively centring on debates in English within the Anglo-American tradition. I do not wish to imply alternative literatures are less interesting, but only beyond the focus of this study. Of course, it is hardly surprising that Hegel's views have attracted competing interpretations in any tradition. For one thing, nearly everything he published is in an outline form meant to accompany lectures, including the *Philosophy of Right*. This unconventional style has tempted some, such as Bertrand Russell, to call Hegel 'the hardest to understand of all the great philosophers'. (See Bertrand Russell, *A History of Western Philosophy* (New York: Simon & Schuster, 1945), p. 730.)
2. The first to make this claim was Rudolf Haym in his *Hegel und seine Zeit* (Berlin, 1857). See also E. F. Carritt, 'Reply' and 'Final Rejoinder', in Walter Kaufmann (ed.), *Hegel's Political Philosophy* (New York: Atherton Press, 1970), pp. 30–43, 48–52; Karl Popper, *The Open Society and Its Enemies*, Vol. II: *The High Tide of Prophecy: Hegel, Marx, and the Aftermath* (5th edn) (London: Routledge & Kegan Paul, 1966) and Russell, *A History of Western Philosophy*, pp. 730–46.
3. Popper, *The Open Society and Its Enemies*, p. 22. Later, Popper admits 'factual mistakes', claiming that 'I looked upon my book as my war effort: believing as I did in the responsibility of Hegel and the Hegelians for much of what happened in Germany', see also pp. 393–4.
4. The initial argument for a modern 'left' interpretation of Hegel's political

- philosophy was put forward by T. M. Knox, 'Hegel and Prussianism' and 'Rebuttal', in Walter Kaufmann (ed.), *Hegel's Political Philosophy* (New York: Atherton Press, 1970), pp. 13–29, 44–7.) See also Shlomo Avineri, *Hegel's Theory of the Modern State* (Cambridge: Cambridge University Press, 1972).
5. See Allen W. Wood, 'Editor's Introduction', in *PR*, p. ix.
 6. The first to note Hegel's political moderation to my knowledge is W. H. Walsh, *Hegelian Ethics* (London: Macmillan, 1969), p. 2.
 7. For Pinkard's views, see Terry Pinkard, 'The Logic of Hegel's *Logic*', in Michael Inwood (ed.), *Hegel* (Oxford: Oxford University Press, 1985), pp. 85–109; Terry Pinkard, 'The Successor to Metaphysics: Absolute Idea and Absolute Spirit', *Monist* 74 (1991), pp. 295–328; and Terry Pinkard, *Hegel's Phenomenology: The Sociality of Reason* (Cambridge: Cambridge University Press, 1994).
 8. See John Rawls, 'Justice as Fairness: Political not Metaphysical' in Samuel Freeman (ed.), *Collected Papers*, (Cambridge, MA: Harvard University Press, 1999).
 9. It is worth noting a point well stated by Michael Inwood's 'Introduction', in his edited *Hegel* (Oxford: Oxford University Press, 1985), p. 5: 'obscurity, controversy and even poor arguments are not unique to metaphysics. It is odd then that some figures claim this is essentially the case'.
 10. A non-metaphysical reading is often an attempt to reinterpret Hegel's views away from more controversial arguments into arguments that are less controversial and broadly appealing. The reading nowhere denies that Hegel offers a metaphysical picture, only that his arguments can be recast into an improved form.
 11. For example, see Frederick Beiser, 'Hegel, a Non-Metaphysician? A Polemic Review of H. T. Engelhardt and Terry Pinkard (eds), *Hegel Reconsidered*', *Bulletin of the Hegel Society of Great Britain* 32 (1995), pp. 1–13; Frederick Beiser, 'Response to Pinkard', *Bulletin of the Hegel Society of Great Britain* 34 (1996), pp. 21–6; Stanley Rosen, G. W. F. *Hegel: An Introduction to the Science of Wisdom* (New Haven, CT: Yale University Press, 1974); and Robert Stern, 'Unity and Difference in Hegel's Political Philosophy', *Ratio* 2 (1989), pp. 75–88.
 12. For example, see H. Tristram Engelhardt, Jr and Terry Pinkard (eds), *Hegel Reconsidered: Beyond Metaphysics and the Authoritarian State* (Dordrecht: Kluwer, 1994); Paul Franco, *Hegel's Philosophy of Freedom* (New Haven, CT: Yale University Press, 1999); Michael O. Hardimon, *Hegel's Social Philosophy: The Project of Reconciliation* (Cambridge: Cambridge University Press, 1994); Dudley Knowles, *Hegel and the Philosophy of Right* (London: Routledge, 2002); Frederick Neuhouser, *Foundations of Hegel's Social Theory: Actualizing Freedom* (Cambridge, MA: Harvard University Press, 2000); Alan Patten, *Hegel's Idea of Freedom* (Oxford: Oxford University Press, 1999); Z. A. Pelczynski, 'An Introductory Essay'; Terry Pinkard, 'What is the Non-Metaphysical Reading

- of Hegel? A Reply to Frederick Beiser', *Bulletin of the Hegel Society of Great Britain* 34 (1996), pp. 13–20; and Peter J. Steinberger, *Logic and Politics: Hegel's Philosophy of Right* (New Haven, CT: Yale University Press, 1988).
13. It is certainly true that Klaus Hartmann's so-called 'systematic' view also takes seriously a view of Hegel's system in interpreting Hegel's thoughts. However, Hartmann elects to run with some features of Hegel's views (and not others). For example, Hartmann's Hegel is a Hegel who offers us 'a philosophy devoid of existence claims'. On the contrary, Hegel's texts are littered with existence claims regarding the 'actuality' of states or how 'true' a state is (see *EL*, §24A2, for example). Hartmann's systematic approach is an approach that picks and chooses what it would like to run with in Hegel's system. It is *not* an approach that takes Hegel on his own terms as my systematic reading demands. See Klaus Hartmann, 'Hegel: a Non-Metaphysical View', in Robert Stern (ed.), *G. W. F. Hegel: Critical Assessments, Vol. III* (London: Routledge, 1993), pp. 243–58 esp. p. 248.
 14. The section 'Objective Spirit' can be found in *ES*, §§483–553.
 15. Hegel reminds us a truly extraordinary number of times that the *Philosophy of Right* is to be understood as part of his larger system. These reminders are in his own words, not additional statements attributed to him by his students. See *PR*, §§2R, 3R, 4R, 7R, 8R, 26R, 31, R, 33R, 34R, 48R, 57R, 78, 88, 95, 148R, 161, 163R, 181, 256R, 258R, 270R, 278, 279R, 280R, 281R, 302R, and 324R.
 16. See K.-H. Ilting, 'The Structure of Hegel's *Philosophy of Right*', in Z. A. Pelczynski (ed.), *Hegel's Political Philosophy: Problems and Prospects* (Cambridge: Cambridge University Press, 1971), p. 98: 'The intricate structure of argumentation of the *Philosophy of Right*, which differs from all earlier presentations of political philosophy, is a reflection of Hegel's implicit criticisms of the political philosophies advanced by ancient and modern thinkers'.
 17. See Frederick Beiser, *Hegel* (London: Routledge, 2005); Richard Bellamy, 'Hegel and Liberalism', *History of European Ideas* 8 (1987), pp. 693–708; Will Dudley, *Hegel, Nietzsche, and Philosophy* (Cambridge: Cambridge University Press, 2002); Emil L. Fackenheim, *The Religious Dimension in Hegel's Thought* (Chicago, IL: University of Chicago Press, 1967); Stephen Houlgate, *Freedom, Truth and History: An Introduction to Hegel's Philosophy* (London: Routledge, 1991); Stephen Houlgate, *An Introduction to Hegel: Freedom, Truth and History* (Oxford: Blackwell, 2005); Michael Inwood, *Hegel* (London: Routledge & Kegan Paul, 1983); Michael Inwood, *A Hegel Dictionary* (Oxford: Blackwell, 1992); Michael Rosen, *Hegel's Dialectic and Its Criticism* (Cambridge: Cambridge University Press, 1982); Michael Rosen, *On Voluntary Servitude: False Consciousness and the Theory of Ideology* (Cambridge: Polity, 1996), pp. 146–67; Rosen, *G. W. F. Hegel*; Stern, 'Unity and Difference in Hegel's Political Philosophy'; Robert Stern, *Hegel, Kant, and the Structure of the Object* (London: Routledge, 1990); Robert Stern, *Hegel and the Phenomenology of Spirit* (London: Routledge, 2002); Robert Bruce Ware, *Hegel: The Logic of Self-Consciousness and the Legacy of Subjective Freedom* (Edinburgh: Edinburgh University Press, 1999);

- and Robert R. Williams, *Hegel's Ethics of Recognition* (Berkeley, CA: University of California Press, 1997). See also Raymond Plant, *Hegel: An Introduction*, (2nd edn) (Oxford: Blackwell, 1983), p. 184: 'reference to [Hegel's] general metaphysical position is crucial to making both his concern for politics and the particular character of that concern intelligible'.
18. For example, my work is indebted heavily to Henry S. Richardson's 'The Logical Structure of *Sittlichkeit*: A Reading of Hegel's *Philosophy of Right*', *Idealistic Studies* 19 (1989), pp. 62–78.
 19. Franco, *Hegel's Philosophy of Freedom*, pp. xii and 140.
 20. Neuhouser, *Foundations of Hegel's Social Theory*, p. 4.
 21. A representative example is stated by Chad McCracken: 'I think ethical and political concerns, rather than epistemological or logical ones, are ultimately the driving force in Hegel's philosophy. These are asides, however: of course a knowledge of the *Science of Logic* and *Phenomenology of Spirit* enhances a reading of the *Philosophy of Right*.' (Chad McCracken, 'Hegel, Contract, and Abstract Personality: A Reply to Professor Carlson', *Texas Law Review* 80 (2001), p. 346.)
 22. See John W. Burbidge, *On Hegel's Logic: Fragments of a Commentary* (Atlantic Highlands: Humanities Press, 1981); Hardimon, *Hegel's Social Philosophy*; Knowles, *Hegel and the Philosophy of Right*; Andrew Norris, 'Beyond the Fury of Destruction: Hegel on Freedom', *Political Theory* 32 (2004), pp. 409–18; Patten, *Hegel's Idea of Freedom*; Steven B. Smith, *Hegel's Critique of Liberalism: Rights in Context* (Chicago, IL: University of Chicago Press, 1989); Steinberger, *Logic and Politics*; Taylor, *Hegel*; Charles Taylor, *Hegel and Modern Society* (Cambridge: Cambridge University Press, 1979); Wood, *Hegel's Ethical Thought*; and Allen W. Wood, 'Reply', *Bulletin of the Hegel Society of Great Britain* 25 (1992), pp. 42–6.
 23. Knowles, *Hegel and the Philosophy of Right*, p. 21.
 24. Whilst this book may be read as a long reply to his *Hegel's Ethical Thought*, no modern commentator on Hegel's political philosophy has performed the duty of improving our understanding of the *Philosophy of Right* better than Allen Wood. Indeed, my interest in Hegel may not have first blossomed if his work had not appeared. Thus, I am not without tremendous sympathy nor praise for the dominant reading of Hegel's political philosophy that I here seek, in a sense, to overthrow. I entirely share Wood's worry that an alternative approach should not 'dictate that you write a book not about Hegel's ethics but about his logic'. In the following pages, I hope that I can prove Wood's worries about alternative readings wrong. See Wood, 'Reply', p. 35.
 25. Pelczynski, 'An Introductory Essay', pp. 136–7.
 26. When I refer to the *Encyclopedia's Logic* here I also imply Hegel's *Science of Logic*. This second work is a more complete rendering of the first. I will discuss this issue at greater length in Chapter 1.
 27. It is well worth trumpeting the fact that this position – formerly known as 'non-metaphysical' – is best understood as 'non-systematic' as it does not deny a

- space for metaphysics in Hegel's work. Dudley Knowles refers to the Pelczynski quote cited above at note 21 and states that it is 'obviously false' to claim we can understand Hegel's political thought without recourse to his metaphysics. See Dudley Knowles, 'Review of G. W. F. Hegel, *Political Writings*, (eds) Laurence Dickey and H. B. Nisbet', *Bulletin of the Hegel Society of Great Britain* 45/46 (2002), p. 125.
28. It is worth noting the peculiar case of Steinberger's *Logic and Politics*. He claims to 'consider the philosophy of Right in light of the Logic, i.e., as governed by, and as an application of, Hegel's philosophical method' (ibid. p. ix). It would then appear he and I are rather similar in approach. However, he makes claims I would regard as contravening Hegel's method, such as 'but if Hegel has shown hereditary monarchy to be philosophically justified, this is not to say that it is philosophically necessary' because it is contrary to Hegel's insistence that each conceptual movement is justified only insofar as it is necessary (p. 226). Worse, rather than examine different areas of Hegel's political thought within the *context* of the *Philosophy of Right* as a whole, Steinberger deviates from Hegel's method a second time in examining each area of Hegel's thought relatively independently of one another. For these reasons, I classify his views as consistent with the non-systematic reading above despite the fact that he argues – as I do here – that 'the deficiencies' of studies on Hegel's work 'stem from an unwillingness to read the philosophy of Right in the context of Hegel's larger philosophical system' (p. viii).
 29. See Wood, 'Reply', pp. 35, 41. See also Taylor, *Hegel and Modern Society*, p. xi where he argues that he leaves out discussion of the system and its logic as his 'aim was to produce not just an exposition of Hegel, but a view of the ways in which he is *relevant* and *important* to contemporary philosophers' (emphasis added). This worry seems confirmed in works that attempt such an exposition. For example, Hugh Reyburn does not arrive at a discussion of the *Philosophy of Right* until chapter six, on p. 115. Similarly, Adriaan Peperzak does not turn his attention to the *Philosophy of Right* until p. 174 of his *Modern Freedom*. (Adriaan T. Peperzak, *Modern Freedom: Hegel's Legal, Moral, and Political Philosophy* (Dordrecht: Kluwer, 2001) and Hugh A. Reyburn, *The Ethical Theory of Hegel: A Study of the Philosophy of Right* (Oxford: Clarendon, 1921).)
 30. Similarly, Neuhouser argues that the logic's specific doctrines have 'proved exceptionally resistant to the efforts of generations of sympathetic commentators to reconstruct them into a philosophically compelling metaphysical system'. The question I want to ask is whether or not this means we should avoid discussing how the system and its logic relate to Hegel's *Philosophy of Right* insofar as they may not be thought to be 'compelling' for contemporary philosophers. See Neuhouser, *Foundations of Hegel's Social Theory*, p. 134.
 31. See Franco, *Hegel's Philosophy of Freedom*, p. 192.
 32. Knowles, *Hegel and the Philosophy of Right*, p. 239.
 33. See Neuhouser, *Foundations of Hegel's Social Theory*, pp. 4–5: 'most contemporary readers will be able to recognise Hegel's view as compelling if they can

- see how it is grounded in a plausible conception of freedom, even though they may lack access to his account of how freedom came to be the authoritative value of modernity or to his metaphysical arguments establishing that self-legislating reason (a type of freedom) constitutes all reality'.
34. For a similar view, see Thomas E. Wartenberg, 'Hegel's Idealism: The Logic of Conceptuality', in Frederick Beiser (ed.), *The Cambridge Companion to Hegel* (Cambridge: Cambridge University Press, 1993), p. 121.
 35. For example, see Mark Bevir, *The Logic of the History of Ideas* (Cambridge: Cambridge University Press, 1999) and Robert Stern, 'History, Meaning, and Interpretation: A Critical Response to Bevir', *History of European Ideas* 28 (2002), pp. 1–12. For a critical look at what the problems are for Bevir when looking at Hegel, see Thom Brooks, 'Does Bevir's *Logic* Improve Our Understanding of Hegel's *Philosophy of Right*?' *The European Legacy* 11 (2006), pp. 765–74. My own position is similar to Michael Rosen's idea of 'interpretation as a craft' in his *Hegel's Dialectic and Its Criticism*, pp. 20–2. Indeed, the viewpoint of his study informs the entirety of my work.
 36. Robert B. Pippin, *Hegel's Idealism: The Satisfactions of Self-Consciousness* (Cambridge: Cambridge University Press, 1989), p. 4.
 37. Wood, 'Reply', p. 35. See Avineri, *Hegel's Theory of the Modern State*, p. ix: 'If [an interpreter of Hegel] tries to trace *in depth* the connection between Hegel's political thought and his general philosophical system, he may find himself immersed in an explication of the systematic edifice of Hegel's philosophy without ever reaching his political theory' (emphasis added). Here Avineri opens up the possibility that if we were to attempt to understand Hegel's views in political theory 'in depth' we would hold a view different than that held by Avineri himself and closer to Hegel's actual position.
 38. I am in general agreement with Frederick Beiser: 'Rather than bowing to current philosophical fashions, or allowing himself to be intimidated by contemporary standards of intellectual respectability, the historian of philosophy should examine the past for its own sake and evaluate it in the light of its own concerns. It is only by doing this that he achieves his ultimate end: a widening of our intellectual horizons by taking us beyond the narrow limits of our own age. The past remains the only refuge from the parochialisms of the present, the only liberation from the dogmatism of one's own age'. Beiser, 'Response to Pinkard', p. 26. See Beiser, 'Hegel, a Non-Metaphysician?' and Pinkard, 'What is the Non-Metaphysical Reading of Hegel?'.
 39. Wood, 'Reply', p. 34 (emphasis added). Unless otherwise noted, all emphasis is given.
 40. On this point, I agree with Pippin, *Hegel's Idealism*, p. 4.
 41. Smith, *Hegel's Critique of Liberalism*, p. 134.
 42. Wood, *Hegel's Ethical Thought*, p. 5.
 43. I follow Karl Ameriks in his 'Hegel and Idealism', *Monist* 74 (1991), p. 398: 'One can surely challenge Hegel's particular arguments here, as well as his claim to completeness, but all this still concedes that he takes his system to

- represent reality itself and not “just our view” of things . . . Rather, it is considered knowledge, indeed “absolute knowledge,” because it supposedly agrees with the [Idea] that captures reality itself’.
44. Beiser, *Hegel*, p. 4. See Hardimon, *Hegel’s Social Philosophy*, p. 5: ‘the point of studying Hegel, like that of studying any other important historical philosopher, is not to come up with radically new and different things to say; rather, it is to deepen our understanding of his view’. Against Beiser, I do not believe an analytic approach to the study of Hegel’s *Philosophy of Right* need entail anachronism. My systematic approach is firmly consistent with the analytic philosophical tradition.
 45. I follow Robert Stern on this point when he states: ‘I have avoided making too much of Hegel’s minor errors, and overlooked the implausibility of some of his arguments, aiming instead at highlighting the whole picture, the grand sweep of Hegel’s metaphysical position. What follows . . . is merely an attempt to understand him’. See Stern, *Hegel, Kant, and the Structure of the Object*, p. viii.
 46. I must acknowledge my indebtedness again to Bob Stern for pushing me so hard on how the metaphysical and non-metaphysical debate might be best developed. Furthermore, I am most grateful to conversations with Jim Kreines, with whom I share an interest in developing this middle position between these camps, although we arrive there using different approaches.

Chapter 1. System

1. The section numbers given are to the third edition of Hegel’s *Encyclopaedia*. The *Philosophy of Right* expands upon §§400–52 in the *Encyclopaedia*’s first edition. See Wood’s editorial notes, *PR*, p. 382 n. 2.
2. On the relationship between Hegel’s larger philosophical system and his mature writings, see Stern, *Hegel and the Phenomenology of Spirit*, p. 7.
3. Nor should we be surprised at Hegel’s insistence that we interpret individual parts of his larger system in light of their wider context within the system. Similarly, Johann Gottlieb Fichte tells us: ‘I request the future judges of this work to consider it as a whole, and to view every single thought in it from the standpoint of the whole’. J. G. Fichte, *The Science of Knowledge*, (eds and trans.) Peter Heath and John Lachs (Cambridge: Cambridge University Press, 1970/1982), p. 91. Later, Fichte would explicitly state the relationship of his major text in political philosophy to his *Science of Knowledge* underpinning his system, entitling it *Foundations of Natural Right According to the Principles of the Science of Knowledge [Wissenschaftslehre]*. See J. G. Fichte, *Foundations of Natural Right According to the Principles of the Wissenschaftslehre*, (ed.) Frederick Neuhouser, (trans.) Michael Bauer (Cambridge: Cambridge University Press, 2000).
4. For the first view, see Rosen, *Hegel’s Dialectic and Its Criticism*, p. 179; for the second view, see Pinkard, ‘The Successor to Metaphysics’.
5. For example, see Pinkard, ‘The Logic of Hegel’s *Logic*’, p. 85. This article was

- originally published in *Journal of the History of Philosophy* 17 (1979), pp. 417–35.
6. Wood, *Hegel's Ethical Thought*, p. 1.
 7. The term 'speculative' does not carry the meanings we often attribute to it today, such as vicariousness. Instead, Hegel uses the term 'speculative' in relation to his logic (as 'speculative logic') simply to distinguish his logic from others.
 8. I do not want to downplay important differences between *EL* and *SL* at all. However, for my present purposes, the general features of Hegel's 'logic' fundamental to his views share this similarity. Any dissimilarities do not appear in my discussion and are not fatal for the picture of Hegel's system being presented.
 9. See *SL*, p. 575: 'But above all, the grandeur of the subject matter may be advanced as an excuse for the imperfect execution. For what subject matter can cognition have that is more sublime than truth itself!'
 10. For this reason, several commentators have taken Hegel's greater elaboration of logic, namely, his *Science of Logic*, to be Hegel's greatest work, for example, see Robert B. Pippin, 'You Can't Get There From Here', in Frederick Beiser (ed.), *The Cambridge Companion to Hegel* (Cambridge: Cambridge University Press, 1993), p. 55.
 11. The best introduction to Hegel's logic is Justus Hartnack, *An Introduction to Hegel's Logic* (Indianapolis, IN: Hackett, 1998), although Stephen Houlgate has begun a larger project of a complete reinterpretation (and revised translation) of the *Science of Logic* which is likely to set a new standard for the study of Hegel's logic that is both engaging and philosophically complex. For example, see Stephen Houlgate, *The Opening of Hegel's Logic: From Being to Infinity* (West Lafayette, IN: Purdue University Press, 2006). Perhaps the least satisfactory commentary on Hegel's logic is by Ermanno Bencivenga, which (in addition to failing to note or have benefited from a rich literature by Hegel scholars, both sympathetic and unsympathetic to his project) makes a fatal error of claiming that 'Hegel's logic is . . . essentially a phenomenology'. Nothing could be further from the truth as the logic is not a movement along a path of despair where one learns that all non-Hegelian approaches to knowledge are failed enterprises in a Hegelian phenomenology, but rather that one learns the movement of a positive, dialectical project of progressive truth of an object in logic. See Ermanno Bencivenga, *Hegel's Dialectical Logic* (Oxford: Oxford University Press, 2000), p. 56.
 12. See *PS*, p. 10 and *SL*, pp. 27–8, 43, 49–50, 68–9. Hegel credits Karl Reinhold for arousing his interest in such a beginning for philosophy (See *SL*, p. 70).
 13. See Houlgate, *The Opening of Hegel's Logic*, p. 30.
 14. See *EL*, §§3R.
 15. See *EL*, §§6R, 19A3, 24A2, 80A, 108A, 198R; *ES*, §§385A, 408A, 432A, 541–2, 544; *GC*, pp. 16, 41, 43; *IA*, pp. 182–3; *LNR*, §§127R, 129R; *PH*, pp. 24, 38–41, 44, 47, 99; *PR*, pp. 12–14, §§57R, 258R, A, 259A, 260A, 270R, A, 272A, 279, R, A, 280R; *PS*, pp. 267, 272; *RRS*, pp. 225–6, 228–9, 232–3; *SL*, pp. 757, 799.

16. See *EL*, §§13R, 14, R.
17. On the Idea, see *EL*, §§14, 213–44 and *SL*, pp. 755–844.
18. On the *Doppelsatz*, see Robert Stern, ‘Hegel’s *Doppelsatz*: A Neutral Reading’, *Journal of the History of Philosophy* 44 (2006), pp. 235–66.
19. Elsewhere, Hegel claims: ‘a union which can only be stated as an *unrest* of *incompatibles*, as a *movement*’ (*SL*, p. 91).
20. See *SL*, p. 372 and also *PR*, §31.
21. Houlgate, *The Opening of Hegel’s Logic*, p. 436.
22. Houlgate, *The Opening of Hegel’s Logic*, pp. 45, 52.
23. See Michael Forster, ‘Hegel’s Dialectical Method’, in Frederick Beiser (ed.), *The Cambridge Companion to Hegel* (Cambridge: Cambridge University Press, 1993), p. 146.
24. See Fichte, *The Science of Knowledge*, pp. 110–13.
25. See G. E. Mueller, ‘The Hegel Legend of “Thesis – Antithesis – Synthesis”’, *Journal of the History of Ideas* 19 (1958), pp. 41–44.
26. See *PR*, §§82, 93, 97A, and *SL*, p. 431.
27. John W. Burbidge, ‘Hegel’s Conception of Logic’, in Frederick Beiser (ed.), *The Cambridge Companion to Hegel* (Cambridge: Cambridge University Press, 1993), p. 93.
28. More specifically, I agree with Frederick Beiser when he argues that Hegel’s specific sense of metaphysics is similar to Kant’s understanding of metaphysics in *CI*: ‘metaphysics is the attempt to gain knowledge of the unconditioned through pure reason’. See Beiser, *Hegel*, p. 54 and *CI*, B7, 378–88, 395.
29. See Ameriks, ‘Hegel and idealism’, p. 398.
30. I simply note the following statement from Terry Pinkard: ‘*Although Hegel did not make this distinction*, we could say that . . . he replaces *metaphysics* . . . with *ontology* . . . We do not need to postulate supersensible entities beyond appearance; we only need to articulate the basic types of categories in our ordinary conceptual thought’. Pinkard, ‘The Successor to Metaphysics’, p. 305 (emphasis added). See also, Pippin, *Hegel’s Idealism*, p. 13; Pippin, ‘You Can’t Get There From Here’, p. 71; and Allen W. Wood, ‘Does Hegel Have an Ethics?’, *Monist* 74 (1991), p. 359; and *CIII*, 475–6 where Kant tells us that ontology is a part of metaphysics.
31. Rawls, *Collected Papers*, p. 394.
32. Pinkard, ‘The Successor to Metaphysics’, p. 306. See Pinkard, ‘The Logic of Hegel’s *Logic*’, p. 97.
33. For example, see Pinkard, ‘The Logic of Hegel’s *Logic*’, p. 100: ‘The objective logic . . . is “metaphysical” is an obvious sense; it is the study of being “at large”’.
34. Hartnack, *An Introduction to Hegel’s Logic*, p. 106.
35. Of course, I do not suggest that a proponent of either view would present Hegel’s views in the exact same terms. Instead, I only claim that the terms with which I discuss Hegel’s views need not be rejected by either proponent.
36. Ermanno Bencivenga is then most incorrect to claim that ‘Hegel’s logic is . . .

- essentially a phenomenology – of spirit, to be sure'. See Bencivenga, *Dialectical Logic*, p. 56. In fact, nothing could be further from the truth as the project of a phenomenology and the project of a logic are two entirely different enterprises.
37. Stern, *Hegel and the Phenomenology of Spirit*, pp. 8–9. Unlike the system where we find 'the progressive unfolding of truth', the *Phenomenology's* content is very different: a series of 'disagreements' (PS, p. 2). Thus, the *Phenomenology* is even a different *project* than the larger system in form *and* purpose.
 38. Houlgate, *The Opening of Hegel's Logic*, p. 146. See EL, §25R.
 39. Terry Pinkard, *Hegel: A Biography* (Cambridge: Cambridge University Press, 2000), p. 336.
 40. A further reason to minimise the interpretive importance of the *Phenomenology* in any explanation of Hegel's philosophical system is that he appears to have abandoned the *Phenomenology* altogether, incorporating most, but not all, of it into the *Philosophy of Spirit* (see ES, §§413–39). This scenario is perhaps the largest controversy among interpreters of the *Phenomenology* and I do not want to speculate on its resolution as this matter only detracts from my larger aims. However, it is worth noting that (a) if Hegel meant to abandon the *Phenomenology*, then it is curious as to why he would have set about a new edition just prior to his death and (b) if most of the *Phenomenology* is to be reincorporated into the system, then it is curious why the movements that were once negative steps along a walk of despair are described anew as positive developments of spirit without a full explanation for the change. This problematic relationship between the *Phenomenology* and Hegel's later works is perhaps reason enough to mark it off from interpretations of these works, although here my official position is that the *Phenomenology* is a preface to the system – in step with the vast majority of Hegel commentators – even if my suspicion is that no particular picture of the *Phenomenology* and system is especially clear. I leave the ultimate merits of this debate to others to judge for themselves.
 41. For example, see EN, §268A: 'What is *rational* in regard to the stars, is to ascertain *how they are grouped* in relation to each other' (emphasis added).
 42. See Robert Stern (ed.), 'Introduction', in, G. W. F. Hegel: *Critical Assessments*, vol. 4 (*Hegel's Philosophy of Nature and Philosophy of Spirit*) (London: Routledge, 1993), p. 2: 'Hegel's aim is simply to show that just as the categories of the [Idea] are dialectically interdependent, so too are certain aspects of the natural world, which explains why in this respect the structures of the former may be used to characterize the latter'.
 43. See Stern, *Hegel, Kant and the Structure of the Object*, pp. 116–17.
 44. See EN, §249A: 'In a system, it is the most abstract term which is the first, and the truth of each sphere is the last; but this again is only the first of a higher sphere. It is the necessity of the Idea which causes each sphere to complete itself by passing into another higher one'.
 45. On Hegel's rationalism in relation to his political philosophy, see Stern, 'General Introduction', p. 15. See PR, Preface p. 20: 'philosophy is *exploration of the rational*' (emphasis given) and PR, §272: 'The constitution is rational in so

- far as the state *differentiates* and determines its activities within itself in accordance with the nature of the concept' (emphasis given).
46. See EL, §19R: 'logic is the science of *thinking* . . . The Idea is thinking, not as formal thinking, but as the self-developing totality of its own peculiar determinations and laws, which thinking does not already *have* and find given within itself, but which it gives to itself' and PR, pp. 20–1: 'the rational, which is synonymous with the Idea, becomes actual by entering into external existence, it emerges in an infinite wealth of forms, appearances, and shapes and surrounds its core with a brightly coloured covering in which consciousness at first resides, but which only the concept can penetrate in order to find the inner pulse, and detect its continued beat even within the external shapes'.
 47. This point is also made by Rolf-Peter Horstmann, 'Substance, Subject, and Infinity: A Case Study of the Role of Logic in Hegel's System', in Katerina Deligiorgi (ed.), *Hegel: New Directions* (Chesham: Acumen, 2006), p. 72.
 48. See EL, §§163, R, A1 and SL, pp. 600–5, 612–18.
 49. See EL, §§163, R, A1 and SL, pp. 600–1, 605–18.
 50. See EL, §§163, R, A1 and SL, pp. 600–1, 612–22.
 51. See EL, §§142–59 and SL, pp. 529–71.
 52. See EL, §§213–44 and SL, pp. 755–844.
 53. See EL, §96A and SL, pp. 106–8.
 54. See PR, §§1–4, 29–30 and ES, §§485–7. Of course, the '*Philosophy of Right* [*Philosophie des Rechts*]' has 'right [*Rechts*]' as its primary subject.
 55. See PR, §§105–41 and ES, §§503–12.
 56. See ES, §§381–86. Of course, the *Philosophy of Spirit* [*Philosophie des Geistes*] as a whole has 'spirit [*Geistes*]' as its subject.
 57. See ES, §§440–82. Hegel summarises this discussion in the *Philosophy of Right* at §§4–29, 33. One consequence is that I believe Allen Wood is mistaken to think that the introduction of the *Philosophy of Right* begins at §469 in the *Philosophy of Spirit* (with the section 'Practical Spirit [*Der praktische Geist*]'), but at §440 encompassing 'Theoretical Spirit [*der theoretische Geist*]' as well. See Wood, *Hegel's Ethical Thought*, p. 21 and Chapter 2.
 58. I will save my discussion of technical terms for their relevant introduction and usage in the following chapters.
 59. On this point, I agree with Michael Petry, 'Hegel and "The Morning Chronicle"', *Hegel-Studien* 11 (1976), p. 21. On the relationship between speculative logic and the *Philosophy of Right*, see Bellamy, 'Hegel and Liberalism', p. 697; Richardson, 'The Logical Structure of *Sittlichkeit*' and Williams, *Hegel's Ethics of Recognition*, p. 111. See also the related discussion of the state as a 'concrete universal' in Plant, *Hegel*, p. 171 and Reyburn, *The Ethical Theory of Hegel*, p. 41. On the notion of the 'concrete universal', see Robert Stern, 'Hegel, British Idealism, and the Curious Case of the Concrete Universal', *British Journal for the History of Philosophy* 15 (2007), pp. 115–53.
 60. See PR, §§2R, 3R, 4R, 7R, 8R, 26R, 31, R, 33R, 34R, 48R, 57R, 78, 88, 95, 148R, 161, 163R, 181, 256R, 258R, 270R, 278, 279R, 280R, 281R, 302R, and

- 324R. It is well worth noting what an extraordinary number of reminders this truly is of how Hegel wants his *Philosophy of Right* to be understood. Again, all references are found in his own writing, not additional student lecture notes.
61. See PR, p. 9: 'The immediate occasion for me to publish this outline is the need to provide my audience with an introduction to the lectures on the *Philosophy of Right* which I deliver in the course of my official duties. This textbook is a more extensive, and in particular a more systematic, exposition of the same basic concepts which, in relation to this part of philosophy, are already contained in a previous work designed to accompany my lectures, namely my *Encyclopaedia of the Philosophical Sciences*'.
 62. It is crucial to note that the *Philosophy of Right* offers only a short abbreviated discussion in its 'Introduction' of the main features of 'Psychology' in the section 'Subjective Spirit' in the larger system that precede the *Philosophy of Right* and warrant its occasion. See PR, §§1–33 and also ES, §§440–82, 483–7.
 63. In what I have said thus far of Hegel's logic and system, I have by no means attempted any defence. I completely accept a point stated well by Michael Rosen: 'If truth requires a system, then it only properly exists at the point of completion of the system; what precedes it is only partial, but not adequate . . . In this way, we have the paradox: to criticize Hegel is to claim that the system does not attain validly its point of completion. But to criticize from any point other than the point of completion violates a crucial presupposition of the system itself, namely, that only someone who has really attained its final point can perceive the rationality of its attainment' (Rosen, *Hegel's Dialectic and Its Criticism*, pp. 23–4). I agree with most of Rosen's many criticisms of Hegel's system and discuss them in this book's conclusion.
 64. This is noted in Williams, *Hegel's Ethics of Recognition*, p. 5.
 65. For example, Charles Taylor says: 'In Part III, I attempt to give an account of the Logic. This is the longest, the hardest, and for those not interested in the detail of Hegel's arguments, the most unrewarding part of the book. A reader interested in the general sweep of Hegel's thought, or more specifically in Hegel's political theory, or philosophy of history, or conception of modern culture, might skip this part': Taylor, *Hegel*, p. vii. This statement is representative of all non-systematic readings of Hegel's *Philosophy of Right* and the overwhelming majority of so-called 'non-metaphysical' readings of this text also.
 66. This note is an addition prepared for the second edition of *Hegel's Political Philosophy*. Chapter 1 engages only briefly with Hegel's *Philosophy of Nature* and it does not consider the more precise relation that exists between the *Philosophy of Nature* and the *Philosophy of Right*. This relation is often overlooked by commentators for many reasons, but primarily because most interpretations of Hegel's political philosophy offer a non-systematic (and so-called non-metaphysical) reading of the *Philosophy of Right* that denies that Hegel's system has any explanatory role in our understanding of this text. The remaining chapters will elucidate why I believe there is an explanatory role and how this may be applied across a wide range of case studies.

The *Philosophy of Nature* might also be downplayed or overlooked because its focus on science is limited by the current state of this field at that time. This text has become one of the less popular works for commentators, perhaps because it combines what many may believe are the worst of both worlds: a controversial philosophical system engaged with many discredited views about science and nature. Furthermore, the *Philosophy of Nature* is one of two arenas for the application of Hegel's logic. We might believe it wise to avoid the *Philosophy of Nature* because of the problems both philosophical and scientific in our desire to better grasp Hegel's political philosophy as presented in the *Philosophy of Right* and its initial presentation in the *Philosophy of Spirit*. Perhaps Hegel's philosophical system has an explanatory role to play in our understanding of political philosophy. But why not grasp the system and its logic first and then apply it to the *Philosophy of Right*. What is there to be gained from the *Philosophy of Nature*? Are we not better off confining it to the sidelines?

I have become increasingly convinced that this move is a significant mistake. My original discussion acknowledges its relevance without explaining better its importance. This footnote is intended to correct this omission in the first edition. I note that the *Philosophy of Nature* has been the subject of increasing interest over the last few years by scholars working in Hegel's positions on ethics and political philosophy, but most especially from those with interests in Hegel's metaphysics (for example, see Stephen Houlgate (ed.), *Hegel and the Philosophy of Nature* (Albany, NY: State University of New York Press, 1999); Robert Stern, *Hegelian Metaphysics* (Oxford: Oxford University Press, 2009); and Alison Stone, *Petrified Intelligence: Nature in Hegel's Philosophy* (Albany, NY: State University of New York Press, 2005).

The central importance of the *Philosophy of Spirit* is that it establishes the existence of the free will and presents us with the question that will inform 'Objective Spirit' and the *Philosophy of Right*, namely, how the free will may will the free will? This analysis of the free will and its further development presupposes the existence of life – and the latter is established in the preceding *Philosophy of Nature*. This may appear to be an insignificant omission. But it is only insignificant where we fail to acknowledge what is established in the idea of life and its further embodiment as purposeful action.

Natural life is confined within certain parameters. For example, Hegel says that 'what is limited to a natural life is not on its own capable of going beyond its own immediate existence' (PS, p. 51). What is required is purposeful activity enacted through reason. Hegel argues:

What has just been said can also be expressed by saying that reason is *purposeful activity*. . . Aristotle also determines nature as purposeful activity, purpose is the immediate, is what is at rest, is self-moving, that is, it is subject. Its abstract power to move is *being-for-itself*, that is, pure negativity. The result is the same at the beginning only because the beginning is purpose – that is, the actual is the same as the concept only because the

immediate, as purpose, has the self, that is, pure actuality, within itself. (PS, p. 12)

Natural life is purposeful activity and this is expressed through our capacity for reason. The highest developments of what our purpose may achieve will later blossom in the *Philosophy of Spirit* where we consider topics such as ethics, politics, world history, religion, and philosophy. But what drives life is its *reasonable purposeful activity*. This fact is central to Hegel's understanding of nature.

The *Philosophy of Nature* defends a view about life developed from the desire by our self-consciousness for itself (PN, §167). Through the efforts of our self-consciousness to reflectively understand itself the self-conscious becomes self-conscious life (PN, §168). This movement continues until self-consciousness reaches its natural limits and discerns that 'self-consciousness attains its satisfaction only in another self-consciousness' (PN, §175). Of course, this foreshadows the later presentation of self-consciousness in the *Philosophy of Spirit* where it is transformed to 'the truth of consciousness' (PS, §424). Where before the self-consciousness seeks its satisfaction in another self-consciousness, we now find that self-consciousness aspires to engage in 'the process of recognition' (PS, §430) leading to the idea of the 'universal self-consciousness' where two selves share an 'affirmative awareness' and the development towards 'Reason, as the Idea' (PS, §§436, 437). This discussion is immediately followed by Hegel's establishing the existence of the theoretical will which leads us to consider its relation to the practical will and free will. We are then faced with how the free will may will the free will which occupies our attention in 'Objective Spirit' and its elaboration in the *Philosophy of Right*.

Hegel's views on nature set the scene by presenting an account of life as purposeful activity led by the development of our self-consciousness as it seeks satisfaction in another. It is this view of life as reasonable purposeful activity that informs Hegel's *Philosophy of Right*. This does not lack significance because it helps further explain the developmental movement as self-conscious and purposeful. We are not merely free, but are free with a rational purpose. This foundation is located in the *Philosophy of Nature* and it deserves substantial inclusion in any systematic reading of Hegel's philosophy. I am especially indebted to Paul Franks for convincing me that this was a more significant omission than I had originally believed.

Chapter 2. Property

1. See ES, §487; LNR, §§10, R; PR, §§31–3R, A. In this book, I will supplement my reading of the *Philosophy of Right* with passages from his *Lectures on Natural Right* only where the latter helps clarify the ideas and arguments in the former. The LNR contain Hegel's earlier lectures on political philosophy given in 1817–18 in Heidelberg, just a few years before the publication of PR in 1821

- after Hegel moved to Berlin. The *PR* is, in essence, the final draft of the *LNR*. I do not substitute *LNR* for *PR*, even if I am convinced there is very little, if any, difference between them. On the *LNR* and its relationship with the *PR*, see Jean-Philippe Deranty, 'Hegel's Parliamentarianism: A New Perspective on Hegel's Theory of Political Institutions', *Owl of Minerva* 32 (2001), pp. 107–33.
2. See, for example, Seyla Benhabib, 'Obligation, Contract, and Exchange: On the Significance of Hegel's Abstract Right', in Z. A. Pelczynski (ed.), *The State and Civil Society: Studies in Hegel's Political Philosophy* (Cambridge: Cambridge University Press, 1984), pp. 159–77; Alan Brudner, *The Unity of the Common Law: Studies in Hegelian Jurisprudence* (Berkeley, CA: University of California Press, 1995), pp. 87–8; Franco, *Hegel's Theory of Freedom*, pp. 201–2; Inwood, *A Hegel Dictionary*, pp. 229–32; Dudley Knowles, 'Hegel on Property and Personality', *Philosophical Quarterly* 33 (1983), pp. 45–62; and Patten, *Hegel's Idea of Freedom*, p. 143.
 3. See, for example, Alan Brudner, 'Hegel and the Crisis of Private Law', in D. Cornell, M. Rosenfeld and D. G. Carlson (eds), *Hegel and Legal Theory* (London: Routledge, 1991), pp. 127–73; Ernest Weinrib, 'Right and Advantage in private law', in D. Cornell, M. Rosenfeld and D. G. Carlson (eds), *Hegel and Legal Theory* (London: Routledge, 1991), pp. 258–84; Ernest J. Weinrib, *The Idea of Private Law* (Cambridge, MA: Harvard University Press, 1995).
 4. See, for example, Chad McCracken, 'Hegel and the Autonomy of Contract Law', *Texas Law Review* 77 (1999), pp. 719–51, esp. p. 748.
 5. Perhaps one of the most important contributions in the literature that shares my general perspective is Peter G. Stillman, 'Property, Freedom, and Individuality in Hegel's and Marx's Political Thought', in J. Roland Pennock and John W. Chapman (eds), *Property* (New York: New York University Press, 1980), pp. 130–67.
 6. See Knowles, *Hegel and the Philosophy of Right*, p. 33, and also p. 48: 'How can we make sense of all this? It must be admitted that here Hegel seems to be pulling one rabbit after another out of a hat, each fantastical, each magical, each mystifyingly unintelligible'.
 7. I disagree with Allen Wood when he argues that 'the structure of Hegel's system of objective spirit; (1) is treated in the *PR*, Introduction; (2) is Abstract Right; (3) is Morality; and (4) is Ethical Life'. Wood, *Hegel's Ethical Thought*, p. 50. The introduction to the *Philosophy of Right* is clearly a summary of 'Subjective Spirit', detailing the importance of the free will and the need to understand the free will as a free will and not an arbitrary will. The structure of 'Objective Spirit' is contained in the *Philosophy of Right*, but only Wood's (2) to (4) above.
 8. For an excellent account, see Stephen Houlgate, 'The Unity of Theoretical and Practical Spirit in Hegel's Concept of Freedom', *Review of Metaphysics* 48 (1995), pp. 859–81.
 9. On original acquisition, see also Leif Wenar, 'Original Acquisition of Private Property', *Mind* 107 (1998), pp. 799–819.

10. See Jeremy Waldron, 'Two Worries about Mixing One's Labour', *Philosophical Quarterly* 33 (1983), pp. 37–44.
11. See John Locke, *Second Treatise of Government* in his *Two Treatises of Government*, (ed.) Peter Laslett (Cambridge: Cambridge University Press, 1988), §45.
12. For a similar view, see Fichte, *Foundations of Natural Right*, pp. 113–23 [§12].
13. See Plant, *Hegel*, p. 154.
14. See Weinrib, 'Right and Advantage in Private Law', p. 266: 'For abstract right all that matters is how the free will of any person has actualized itself'. See also Neuhaus, *Foundations of Hegel's Social Theory*, p. 25.
15. See PR, §32A: 'Thus, we cannot say, for example, that property existed before the family, although property is nevertheless dealt with first'.
16. See Franco, *Hegel's Philosophy of Freedom*, p. 198: 'Property is nothing more (or less) than the embodiment of the freedom of personality'.
17. Richard Teichgraber, 'Hegel on Property and Poverty', *Journal of the History of Ideas* 38 (1977), pp. 51, 54. Therefore, Hegel's discussion of the development of the free will via property ownership is not about self-discipline. See Jeremy Waldron, *The Right to Private Property* (Oxford: Oxford University Press, 1988), pp. 370–4. I agree here with Patten, *Hegel's Idea of Freedom*, pp. 141–3.
18. John Rawls, *Lectures on the History of Moral Philosophy*, (ed.) Barbara Herman (Cambridge, MA: Harvard University Press, 2000), p. 343.
19. Andrew Reeve, *Property* (London: Macmillan, 1986), p. 141.
20. Christopher J. Berry, 'Property and Possession: Two Replies to Locke – Hume and Hegel', in J. Roland Pennock and John W. Chapman (eds), *Property* (New York: New York University Press, 1980), p. 97.
21. For an opposing view, see Williams, *Hegel's Ethics of Recognition*, p. 154: 'Wrong presupposes that some social order, however minimal, has been established and exists'.
22. See Brudner, 'Hegel and the Crisis of Private Law', pp. 127–73 and Weinrib, 'Right and Advantage in Private Law', p. 279: 'Hegel's account of abstract right is the most sustained attempt in Western legal philosophy to capture the distinctive rationality of private law'.
23. Brudner, 'Hegel and the Crisis of Private Law', p. 127.
24. M. G. Salter (ed.), 'Hegel and the Social Dynamics of Property Law' in *Hegel and Law* (Aldershot: Ashgate, 2003), p. 168; see also p. 265 and David Gray Carlson, 'How to do Things with Hegel', *Texas Law Review* 78 (2000), p. 1377: 'In Hegel's account personality is not pre-legal. Contract law is not merely useful to persons. It is the foundation of personality itself. Consent binds because personality is consent to human interrelation'.

Chapter 3. Punishment

1. See, for example, Jami L. Anderson, 'Annulment Retributivism: A Hegelian Theory of Punishment', *Legal Theory* 5 (1999), pp. 363–88; Stephen Paul Brown, 'Punishment and the Restoration of Rights', *Punishment and Society* 3 (2001),

- pp. 485–500; David E. Cooper, ‘Hegel’s Theory of Punishment’, in Z. Pelczynski (ed.), *Hegel’s Political Philosophy: Problems and Perspectives* (Cambridge: Cambridge University Press, 1971), pp. 151–67; J. Angelo Corlett, ‘Making Sense of Retributivism’, *Philosophy* 76 (2001), p. 80, n. 11; John Cottingham, ‘Varieties of retribution’, *Philosophical Quarterly* 29 (1979), pp. 244–5; Markus Dirk Dubber, ‘Rediscovering Hegel’s Theory of Crime and Punishment’, *Michigan Law Review* 92 (1994), pp. 1577–621, esp. p. 1605; J. N. Findlay, *Hegel: A Re-examination* (London: George Allen & Unwin, 1958), pp. 312–13; Franco, *Hegel’s Philosophy of Freedom*, pp. 204–6; Jean Hampton, ‘The Moral Education Theory of Punishment’, *Philosophy and Public Affairs* 13 (1987), p. 236; Andy Hetherington, ‘The Legitimacy of Capital Punishment in Hegel’s *Philosophy of Right*’, *The Owl of Minerva* 27 (1996), pp. 167–74; Steven J. Heyman, ‘The Legitimacy of Capital Punishment in Hegel’s *Philosophy of Right*: A Comment’, *The Owl of Minerva* 27 (1996), pp. 175–80; Lewis P. Hinchman, ‘Hegel’s Theory of Crime and Punishment’, *Review of Politics* 44 (1982), p. 524; Ted Honderich, *Punishment: The Supposed Justifications* (Harmondsworth: Penguin, 1976), pp. 45–8; Inwood, *A Hegel Dictionary*, pp. 232–5; Tziporah Kasachkoff, ‘Hegel’s Retributivist Position on Punishment’, *Philosophical Studies (Ireland)* 25 (1977), pp. 192–211; Karl Marx, ‘On Capital Punishment’, *New York Daily Tribune*, 28 February 1853; Plant, *Hegel*, (2nd edn), p. 157; J. Robert S. Prichard and Alan Brudner, ‘Tort Liability for Breach of Statute: A Natural Rights Perspective’, *Law and Philosophy* 2 (1983), pp. 94–9; Igor Primoratz, *Justifying Legal Punishment* (Atlantic Highlands, NJ: Humanities Press, 1989), pp. 69–81; Jeffrey Reiman, ‘Why the Death Penalty Should be Abolished in America’, in L. Pojman and J. Reiman (eds), *The Death Penalty: For and Against* (Lanham, MD: Rowman & Littlefield, 1998), pp. 89–92; George Sher, *Desert* (Princeton, NJ: Princeton University Press, 1987), p. 70; Peter G. Stillman, ‘Hegel’s Idea of Punishment’, *Journal of the History of Philosophy* 14 (1976), pp. 169–82; Taylor, *Hegel*, p. 429; Mark Tunick, *Hegel’s Political Philosophy: Interpreting the Practice of Legal Punishment* (Princeton, NJ: Princeton University Press, 1992); Mark Tunick, *Punishment: Theory and Practice* (Berkeley, CA: University of California Press, 1992), p. 87 (calls Hegel ‘one of the most famous and important retributivists’); Williams, *Hegel’s Ethics of Recognition*, pp. 157–71; Wood, *Hegel’s Ethical Thought*, pp. 108–24; and Allen W. Wood, ‘Hegel’s Ethics’, in F. Beiser (ed.), *The Cambridge Companion to Hegel* (Cambridge: Cambridge University Press, 1993), pp. 220–1.
2. R. A. Duff, *Punishment, Communication, and Community* (Oxford: Oxford University Press, 2001), pp. 19–20. See also Mark. A. Michael, ‘Utilitarianism and Retributivism: What’s the Difference?’ *American Philosophical Quarterly* 29 (1992), pp. 173–82 and Thom Brooks, ‘Retributivist Arguments against Capital Punishment’, *Journal of Social Philosophy* 35 (2004), pp. 188–97.
 3. This view of retributivism is sometimes referred to as ‘positive retributivism’, in contradistinction to ‘negative retributivism’ which holds only that desert is necessary, but not sufficient, for punishment. Elsewhere I argue that negative

- retributivism is not a retributivist theory at all, but a hybrid theory of punishment. See Thom Brooks, *Punishment* (London: Routledge, 2008).
4. See Hinchman, 'Hegel's Theory of Crime and Punishment', pp. 523–45 (where he argues that Hegel's views on punishment in abstract right cohere with his earlier writings, in addition to its improvement over Kant's theory). On Kant's theory of punishment, see Thom Brooks, 'Corlett on Kant, Hegel, and retribution', *Philosophy* 76 (2001), pp. 562–73; Thom Brooks, 'Kant's Theory of Punishment', *Utilitas* 15 (2003), pp. 206–24; and Thom Brooks, 'Kantian Punishment and Retributivism: A Reply to Clark', *Ratio* 18 (2005), pp. 237–45.
 5. Honderich, *Punishment*, 45. Feinberg says, 'To support such claims would require a great deal of argument and clarification. I leave this difficult subject with the observation that no one has yet given it adequate treatment'. Joel Feinberg, *Doing and Deserving: Essays in the Theory of Responsibility* (Princeton, NJ: Princeton University Press, 1970), p. 73n.
 6. Cooper, 'Hegel's Theory of Punishment', p. 151.
 7. The typical view is stated eloquently by Steinberger: 'Of course, true punishment, as opposed to mere revenge, only comes on the scene with the advent of Civil Society in which the principles of law have been firmly established (PR, §220). But the full justification for punishment is already present in the section on Abstract Right'. Steinberger, *Logic and Politics*, p. 125. Admittedly, Steinberger argues elsewhere: 'it may be wondered how much of this account is really Hegel, and how much is merely inspired by certain Hegelian insights. I am not as well prepared to answer this question as I would like to be'. Peter J. Steinberger, 'Hegel on Crime and Punishment', *American Political Science Review* 77 (1983), p. 870.
 8. Findlay, *Hegel*, p. 321. See Cooper, 'Hegel's Theory of Punishment', p. 151 and Stillman, 'Hegel's Idea of Punishment', p. 170 n. 5.
 9. Stillman, 'Hegel's Idea of Punishment', p. 170 n. 5. See Knowles, *Hegel and the Philosophy of Right*, p. 153.
 10. This is hinted at in Dudley Knowles, 'Hegel on the Justification of Punishment', in R. Williams (ed.), *Beyond Liberalism and Communitarianism: Studies in Hegel's Philosophy of Right* (Albany, NY: State University of New York Press, 2001), p. 134 and Knowles, *Hegel and the Philosophy of Right*, p. 148 where he talks of 'the social functionality of punishment' for Hegel.
 11. Whilst I would agree with Peter Steinberger that Hegel's theory is not retributive in any traditional sense, Steinberger claims this is so – not because Hegel's theory is non-individualistic – because it lacks 'the principle of revenge . . . without recourse to added utilitarian considerations'. Steinberger, 'Hegel on Crime and Punishment', p. 869. I disagree with this latter view.
 12. My approach has more in common with that of Henry Richardson and Stephen Houlgate. See Stephen Houlgate, 'Hegel's Ethical Thought', *Bulletin of the Hegel Society of Great Britain* (1992), pp. 10–13 and Richardson, 'The Logical Structure of *Sittlichkeit*', pp. 62–78.
 13. See PR, pp. 9–10. In addition, Harry Brod argues: 'Any valid interpretation

- of Hegel's *Philosophy of Right* must bear in mind that it is an elaboration of §§483–551 of his *Philosophy of Spirit*, the section designated as “Objective Spirit”. Harry Brod, ‘The “Spirit” of Hegelian Politics: Public Opinion and Legislative Debate from Hegel to Habermas’, in P. Stillman (ed.), *Hegel's Philosophy of Spirit* (Albany, NY: State University of New York Press, 1987), p. 124; Hartmann, ‘Towards a New Systematic Reading of Hegel's *Philosophy of Right*’, p. 117.
14. For an excellent discussion, see Stern, ‘Unity and Difference in Hegel's Political Philosophy’.
 15. *EL*, §15R. See *SL*, p. 755.
 16. *SL*, pp. 514–15, 827. See *PS*, p. 11.
 17. The existence of right is presupposed in the *Philosophy of Right*, having been demonstrated to exist in the previous corresponding sections of the *Philosophy of Spirit*: see *PR*, §2 and *ES*, §§485–7.
 18. *PR*, §§4, R, A, 13, A. On the will, see Houlgate, ‘The Unity of Theoretical and Practical Spirit in Hegel's Concept of Freedom’.
 19. See *PR*, §§41A, 49R.
 20. See *ES*, §§483, 491.
 21. ‘Thus bad actions, for example, are merely subjective’ (*PR*, §27A; see *ES*, §396A).
 22. *PR*, pp.15, 18–19. Hegel repeatedly condemns grounding right solely with subjective inclinations. See *PR*, pp. 11–12, 15, 17–19, §§2R, 3R, 11, 15R, 17, 18, 25, 26A.
 23. These distinctions correspond to the logical categories of ‘simple negative judgement’, ‘positive infinite judgement’, and ‘negative infinite judgement’, respectively. See Tunick, *Hegel's Political Philosophy*, pp. 26–9 and *EL*, §173A.
 24. See *PR*, §99R: ‘In the present discussion, we are solely concerned with the need to cancel crime – not as a source of *evil*, but as an infringement of right as right’.
 25. See *SEL*, p. 118: ‘It is laughable to regard everything under the form of this abstraction as legal right; right is something entirely formal, (α) infinite in its variety, and without totality, and (β) without any content in itself’.
 26. See Stillman, ‘Hegel's Idea of Punishment’, p. 177: ‘The problem of the punishment of the innocent pervades all justifications of punishment that are not retributive’.
 27. See *EL*, §121A.
 28. *SL*, pp. 461–6, esp. p. 465. Hegel will later justify deterrence in disciplining children. (See Chapter 5.)
 29. See *SEL*, pp. 132, 139–40. Cullen argues: ‘Since violations of this justice are violations of the interests of a particular individual and not the interests of the whole nation, the appropriate sanctions are not vengeance or war but punishment’. Bernard Cullen, *Hegel's Social and Political Thought: An Introduction* (New York: St. Martin's Press, 1979), p. 61.
 30. *LNR*, §46R and *ES*, §500.

31. See ES, §531, referring to §500 and PR, §220, referring to §102.
32. For perhaps the best exception, see Peter P. Nicholson, 'Hegel on Crime', *History of Political Thought* 3 (1982), pp. 103–21. While different in important respects, my interpretation is indebted to his.
33. 'The objective actuality of right' is manifest in 'the Administration of Justice' (PR, §210).
34. The only exception may be state execution for murderers: 'although retribution cannot aim to achieve specific equality, this is not the case with murder, which necessarily incurs the death penalty. For since life is the entire compass of existence, the punishment [for murder] cannot consist in a *value* – since none is equivalent to life – but only in the taking of another life' (PR, §101A). This passage may be best understood, as I have said elsewhere, by what Hegel *should* have said: 'In a sense, it is somewhat of a coincidence that the most severe crime (that is, murder) – or, at least one of the most severe – is punished by the most severe *punishment* (that is, execution). Hegel could have then argued that he is not making any special exceptions in this instance, as he would not be justifying his position on the basis that no punishment other than death would be appropriate for murderers. The equivalence between a murderer and his punishment would then only be in *value*, not in kind. The biggest drawback to this argument is the fact that Hegel never offers it. If he had, his argument for capital punishment would have been more consistent'. See Thom Brooks, 'Corlett on Kant, Hegel, and retribution', p. 576 n. 71. I remain grateful to Brian O'Connor for suggesting this argument.
35. See PR, §214R.
36. See LNR, §114: 'An offence is intrinsically dangerous in proportion to the other offences it makes possible . . . since the security of civil society is thereby impaired, it can impose more severe penalties' (see also PR, §§218R, A).
37. Hegel's views are consistent with many British Idealists who took inspiration from his work. See for example, Bernard Bosanquet, *The Philosophical Theory of the State* (London: Macmillan, 1958), pp. 167–217; T. H. Green, *Lectures on the Principles of Political Obligation* (London: Longmans, 1941), §§176–206; and Thom Brooks, 'An Idealist Theory of Punishment' (1 February 2006) available at SSRN: <http://ssrn.com/abstract=869444>.
38. See PR, §217R: 'The original, i.e. immediate, modes of acquisition and titles (see §§54ff.) are in fact abandoned in civil society, and occur only as individual accidents or limited moments'.
39. Relating to a drunken killer, Peter Steinberger argues that, for Hegel: 'while perhaps we would not want to punish him for first-degree murder, we would want to punish him for his somewhat lesser but still grave offence. Steinberger, *Logic and Politics*, p. 143; see also Nicholson, 'Hegel on Crime', p. 120 (argues Hegel might punish criminal attempts less than actual offences). In fact, Hegel criticises precisely this view at PR, §§118R, A, 126, R, 135R, 140R, A. Hegel says that 'to consider such circumstances . . . is once again to deny the criminal the right and dignity of a human being . . . However, lack of mental

- development can justify lesser degrees of punishment, but only if the criminal is a child or insane' (PR, §132R; see LNR, §56 and ES, §§408A).
40. My view contradicts that of Stillman, who claims that 'the measure of [a criminal's] penalty is also derived from the criminal's act and will. For the penalty is derived from the specific content of the crime itself . . . Since the punishment fits the crime, the criminal in committing the crime has chosen his punishment'. Stillman, 'Hegel's Idea of Punishment', p. 174.
 41. See Tunick, *Punishment*, p. 162.
 42. Tunick, *Punishment*, p. 164. See Knowles, *Hegel and the Philosophy of Right*, p. 158: 'Hegel has little to say about how judgments of equality are made, how sentences can equate to the criminal's just deserts. This for him is a matter of detail, to be settled at the level of a community's custom and practice'. Knowles, 'Hegel on the Justification of Punishment', p. 134. Elsewhere Tunick claims that when Hegel 'begins to compromise principles, turn consequentialist, waver' it is because 'applying theory is hard'. Tunick, *Hegel's Political Philosophy*, p. 137. He later adds at p. 138: 'While Hegel's wavering and waffling show how circumscribed the power of his theory is, they are the necessary cost of his willing to be practical, political'.
 43. Elsewhere Hegel criticises China for failing to distinguish 'in the penal code between higher and lower classes' (PH, p. 130).
 44. See PH, pp. 127–31, 212.
 45. In addition, Hegel argues that a person's background should be irrelevant to considerations of crime and punishment (see PR, §209R and PH, pp. 150–1).
 46. See PR, §116R and ES, §531. See also Thom Brooks, 'The Right to Trial by Jury', *Journal of Applied Philosophy* 21 (2004), pp. 197–212 and Thom Brooks, 'A Defence of Jury Nullification', *Res Publica* 10 (2004), pp. 401–23.
 47. I am grateful to Bob Stern for this point.
 48. See NL, pp. 60, 92, 120. It is worth noting that this view of punishment shares a number of similarities with T. H. Green's theory of punishment. See Thom Brooks, 'T. H. Green's Theory of Punishment', *History of Political Thought* 24 (2003), pp. 685–701.
 49. Wood, 'Hegel's Ethics', p. 221.

Chapter 4. Morality

1. See F. H. Bradley, *Ethical Studies*, (2nd edn) (Oxford: Clarendon, [1876] 1927): p. 148 n. 1. For a sympathetic view with Bradley, see Bernard Williams, *Ethics and the Limits of Philosophy* (Cambridge, MA: Harvard University Press, 1985), pp. 104, 184.
2. Hegel argues that Socrates is the inventor of morality: see PH, p. 269.
3. Beiser, *Hegel*, p. 236.
4. See PR, §153A: 'The individual attains his right only by becoming the citizen of a good state'.

5. Wood, *Hegel's Ethical Thought*, pp. 98, 195.
6. Jay Drydyk, 'Capitalism, Socialism, and Civil Society', *Monist* 74 (1991), p. 464.
7. Bosanquet, *The Philosophical Theory of the State*, pp. 246–52 and Pinkard, 'The Successor to Metaphysics', p. 312.
8. Bradley, *Ethical Studies*, p. 173. This is captured beautifully by Knowles: 'Each person is an ethical virtuoso, managing a complex emotional life in the light of recognized moral responsibilities. But this triumph of self-realization is only possible within a social framework which has developed as necessary for its accomplishment. Magnificent instrumentalists though we may be, we can only achieve the consummation of our skills alongside others in the social orchestra. Then we are truly free'. Knowles, *Hegel and the Philosophy of Right*, p. 56.
9. On Kantian ethics more generally, see Julia Driver, *Ethics* (Oxford: Blackwell, 2006), pp. 80–101; Christine Korsgaard, *Creating the Kingdom of Ends* (Cambridge: Cambridge University Press, 1996); Roger Sullivan, *An Introduction to Kant's Ethics* (Cambridge: Cambridge University Press, 1994); and Jens Timmermann, 'Good but Not Required? – Assessing the Demands of Kantian Ethics', *Journal of Moral Philosophy* 2 (2005), pp. 9–27.
10. See for example, Ardis B. Collins, 'Hegel's Critical Appropriation of Kantian Morality', in Robert B. Williams (ed.), *Beyond Liberalism and Communitarianism: Studies in Hegel's Philosophy of Right* (Albany, NY: State University of New York Press, 2001), pp. 21–39; Gordon Finlayson, 'Does Hegel's Critique of Kant's Moral Theory Apply to Discourse Ethics?', *Bulletin of the Hegel Society of Great Britain* 37/38 (1998), pp. 17–34; David Couzens Hoy, 'Hegel's Critique of Kantian Morality', *History of Philosophy Quarterly* 6 (1989), pp. 207–32; Kenneth R. Westphal, 'Hegel's Critique of Kant's Moral World View', *Philosophical Topics* 19 (1991), pp. 133–76; and Kenneth R. Westphal, 'Kant, Hegel, and Determining Our Duties', *Jahrbuch für Recht und Ethik/Annual Review of Law and Ethics* 13 (2005), pp. 335–54.
11. See Allen W. Wood, 'The Emptiness of the Moral Will', *Monist* 72 (1989), pp. 454–83.
12. Thus, Peter Steinberger writes 'Morality itself is, in Hegel's account, virtually a synonym for Kantian ethics'. Steinberger, *Logic and Politics*, p. 148. See Wood, *Hegel's Ethical Thought*, p. 127.
13. See Hoy, 'Hegel's Critique of Kantian Morality', p. 213. See also Bradley, *Ethical Studies*, p. 154: 'Duty for duty's sake is false and impossible'.
14. See PS, p. 234: 'Ideal entities and purposes of this kind are empty, ineffectual words which lift up the heart but leave reason unsatisfied, which edify, but raise no edifice; declamations which specifically declare merely this: that the individual who professes to act for such noble ends and who deals in such fine phrases is in his own eyes an excellent creature'.
15. Rawls, *Lectures on the History of Moral Philosophy*, p. 182.
16. Rawls, *Lectures on the History of Moral Philosophy*, p. 163
17. Westphal, 'Kant, Hegel, and Determining Our Duties', p. 340.

18. See G 4:426: 'Hence everything empirical . . . is also highly prejudicial to the purity of morals, where the proper worth of an absolutely good will – a worth raised above all price – consists just in the principle of action being free from all influences of contingent grounds, which only experience can furnish'.
19. See Stern, *Hegel, Kant and the Structure of the Object*, p. 50 and Taylor, *Hegel*, p. 430.
20. Bradley, *Ethical Studies*, p. 173; see also p. 180: 'To be moral, I must will my station and its duties . . . my moral self is not simply mine; it is not an inner which belongs simply to me; and further, it is not a mere inner at all, but it is the soul which animates the body and lives in it . . . The objective organism, the systematized moral world, is the reality of the moral will; my duties on the inside answer to duty functions on the outside'.
21. See J. F. Fries, *Neue Kritik der Vernunft [New Critique of Reason]*, vol. III (Berlin, 1807), p. 190 cited in Wood's editorial notes found at PR, p. 431, n. 13: 'The first law of the philosophical theory of virtue is the good disposition of character . . . For each can be judged only according to his own conviction, and what it would be wrong to do according to a correct conviction can for the individual be precisely what accords with duty'. Furthermore, I would suggest that, for Hegel, the problem of morality is that the individual alone decides himself the criteria of right and wrong (see PR, §140A and Plato's *Republic* in his *Complete Works*, (ed.) John M. Cooper (Indianapolis, IN: Hackett, 1997) for his famous example of a shepherd who acquires the ring of Gyges, 359c–360d).
22. See R 6:10: 'a religion that rashly declares war on reason will not long endure against it'.
23. The closest anyone has come to this reading is perhaps Oran Moked, 'The Relationship between Religion and State in Hegel's Thought', *Bulletin of the Hegel Society of Great Britain* 49/50 (2004), pp. 96–112 at p. 104: 'a parallel can be drawn between this view of an abstract morality that can be fully actualised only in and through the determinate political institutions of ethical life, on the one hand, and Hegel's notion of an abstract divine principle that can be fully realised only in and through earthly human activity, on the other'.
24. See PR, §270R: 'The content of religion is absolute truth'.
25. See PR, §270R: 'Thus, when the Church proceeds to put forward *doctrines* . . . and its doctrines relate to *objective principles*, to ethical and rational thoughts, its expression of these doctrines immediately brings it into the province of the state'.
26. For example, Kant would continue to lack a proper account of his own views within Hegel's larger dialectical structure.

Chapter 5. Family

1. For example, there is hardly any mention at all of the family in Allen Wood's comprehensive *Hegel's Ethical Thought*.
2. An excellent discussion of this criticism can be found in Alison Stone's article

- 'Feminist Criticism and Reinterpretations of Hegel', *Bulletin of the Hegel Society of Great Britain* 45/46 (2002), pp. 93–109.
3. See Carla Lonzi, 'Let's Spit on Hegel', in Patricia Jagentowicz Mills (ed.), *Feminist Interpretations of G. W. F. Hegel* (University Park, PA: Penn State Press, 1996), pp. 275–97.
 4. Steinberger, *Logic and Politics*, p. 165.
 5. Knowles, *Hegel and the Philosophy of Right*, p. 258.
 6. For example, see PR, §§250–56, 268, R.
 7. See LNR, §§69, R.
 8. See also Fichte, *Foundations of Natural Right*, First appendix, §3: 'Even the prostitute prefers to profess that she engages in her shameful business for financial gain, rather than out of sexual desire'.
 9. See ES, §447R; LNR, §64R; and also ES, §400R: 'an appeal to heart and feeling either means nothing or means something bad'.
 10. See ES, §431A.
 11. See LNR, §§73, R.
 12. See PS, p. 273.
 13. The phrase is from Pinkard, *Hegel*, p. 191, see also p. 481.
 14. See, for example, ES, §436A.
 15. See PS, pp. 268–9; RRS, pp. 228–9.
 16. See Williams, *Hegel's Ethics of Recognition*, p. 218.
 17. See Plato, the *Symposium*, 189d–194e.
 18. Indeed, Kant even has an almost vulgar manner of describing such activity: '*Sexual activity (commercium sexuelle)* is the reciprocal use that one human being makes of the sexual organs and capacities of another (*usus membrorum et facultatum sexualium alterius*)' (MM, 6:277).
 19. Steinberger, *Logic and Politics*, p. 177.
 20. See, for example, Christopher Bennett, 'Liberalism, Autonomy, and Conjugal Love', *Res Publica* 9 (2003), pp. 285–301 and Christopher Bennett, 'Autonomy and Conjugal Love: A Reply to Golash', *Res Publica* 12 (2006), pp. 191–201. For a critique, see Deirdre Golash, 'Marriage, Autonomy, and the State: Reply to Christopher Bennett', *Res Publica* 12 (2006), pp. 179–90.
 21. See also EL, §193 and LNR, §75R: 'Particularization is male and female', with a third moment of 'is what is produced, the product' that unites the male and female into a concrete unity.
 22. See Edward C. Halper, 'Hegel's Family Values', *Review of Metaphysics* 54 (2001), p. 836.
 23. See LNR, §75R 'Actualized identity is reproduction, the result, the product. Those who reproduce intuit their identity in their offspring, and their offspring have the feeling of unity; [the child has] its roots in the family from which it [has] sprung. In it, in the child, the species has attained a determinate existence'.
 24. In referring to Hegel's rejection of incest, Dudley Knowles says that 'it is hard to adjudicate an argument presented at this level of abstraction'. Knowles,

- Hegel and the Philosophy of Right*, p. 252. This difficulty only arises when we do not take seriously the rational structure that underpins the form of Hegel's unique manner of presenting arguments. These arguments are considered sound insofar as they satisfy the criteria of speculative logic, not our commonsense. In fact, it is clearly the case that arguments that are justified in terms of this logic and that fail to cohere with commonsense are taken by Hegel as further proof that in his logic we can witness the true development of thought (see *SL*, p. 84). If our difficulty is accepting Hegel's arguments because we are not persuaded by the structure of his arguments, then I share this difficulty. However, it is *not* difficult to grasp Hegel's arguments if we view them in line with his clear argumentative structure. We can discern his reasons in favour of any position. Whether we are convinced by these reasons depends upon our acceptance of his system. Everything stands or falls with the system.
25. See Bradley, *Ethical Studies*, pp. 160–206.
 26. I agree with Neuhouser, *Foundations of Hegel's Social Theory*, pp. 150–1. See also *PH*, p. 422: 'The significance of parental discipline resides less in the teaching of specific moral precepts than in its effect in providing children with a particular subjective capacity – in this case a capacity of the will – that is essential to the kind of self-determination that characterizes more subjects'.
 27. John Haldane, 'Family Matters', *Philosophy* 81 (2006), p. 586.
 28. I do not want to suggest that Haldane's considered defence of the family is solely empirical, rather than philosophical (and he does not defend traditional gender roles). I am here interested in fleshing out Hegel's views on the family and not others. Readers interested in a careful, yet provocative, defence of more traditional family life are strongly encouraged to engage with Haldane's well argued views. See Haldane, 'Family Matters'. One component part of his defence is that family matters in a particular respect, namely, empirical data that children benefit from distinct advantages given their upbringing. I only wish to focus on that view here.
 29. Knowles, *Hegel and the Philosophy of Right*, p. 249.
 30. I agree with Frederick Neuhouser and this passage from Walsh, *Hegelian Ethics*, p. 42: 'Hegel presumably does not mean that a bachelor or a spinster cannot lead a satisfactory self-conscious life; his point is rather that marriage multiplies the opportunities for satisfaction by opening up possibilities of common action which are not available to single persons'. See Neuhouser, *Foundations of Hegel's Social Theory*, p. 268.
 31. Knowles, *Hegel and the Philosophy of Right*, p. 251. See Neuhouser, *Foundations of Hegel's Social Theory*, pp. 277–8.
 32. Moreover, this sense of identification may well be possible in other forms of familial relationships.
 33. See Neuhouser, *Foundations of Hegel's Social Theory*, p. 128.
 34. Pinkard, *Hegel*, p. 711 n. 122.
 35. See *LA*, I, p. 593; *LNR*, §§77, 82. See also Laura Brace, 'The Tragedy of the Freelance Hustler: Hegel, Gender, and Civil Society', *Contemporary Political*

- Theory 1 (2002), p. 329 and Hardimon, *Hegel's Social Philosophy*, pp. 184, 186.
36. Reyburn, *The Ethical Theory of Hegel*, p. 208.
 37. See LNR, §77. This view of men and women is shared with other philosophers of the time: see Fichte, *Foundations of Natural Right*, first appendix, §2.
 38. See PR, p. 439, n. 2: 'The man's dominion is scientific universal cognition, and so art is also the object of the man, for although it is presented in individuality, it is a universal, a universal idea, the imagination inspired by reason, the Idea of a universal. These are the man's provinces. There can be exceptions for individual women, but the exception is not the rule. Women, when they trespass into these provinces, put the provinces themselves in danger'.
 39. I borrow this view from Michael Hardimon in his *Hegel's Social Philosophy*, p. 186.
 40. Wood, *Hegel's Ethical Thought*, p. 245.
 41. This characterisation of men as "concrete" persons I borrow from Brace, 'The Tragedy of the Freelance Hustler', p. 331.
 42. See Pinkard, *Hegel*, pp. 70, 314–15, 482. At one point, Hegel suggests that only men are fully citizens: 'her interest is centred on the universal and remains alien to the particularity of desire; whereas in the husband these two sides are separated; and since he possesses *as a citizen* the self-conscious power of universality, he thereby acquires the right of desire and, at the same time, preserves his freedom in regard to it' (PS, p. 275 (emphasis added)). What appears to do the work here is the existence of the husband's citizenship and the wife's lack of it, although I do not have the space to examine this issue further. I take this view only as something that *may* be suggested. I am not claiming that Hegel's view is that women are not citizens.
 43. Véronique Munoz-Dardé questions whether we would be better off abolishing the family altogether, given that the family is 'one of the main causes of morally arbitrary inequality'. See Véronique Munoz-Dardé, 'Is the Family to be Abolished Then?' *Proceedings of the Aristotelian Society* (1999), p. 37.
 44. Carole Pateman, 'Hegel, Marriage, and the Standpoint of Contract', in Patricia Jagentowicz Mills (ed.), *Feminist Interpretations of G. W. F. Hegel* (University Park, PA: Penn State Press, 1996), p. 217.
 45. I agree with the view of Michael Inwood here in his *A Hegel Dictionary*, pp. 99–100. However, I disagree with Inwood's claim that women of Hegel's class would *not* be second in status to their husband-master. For example, Fichte reminds us that after marriage a woman 'is subject to her husband altogether unconditionally'. Fichte, *Foundations of Natural Right*, first appendix, §11. To be clear, I find such views entirely deplorable and without merit. I seek only to note that while the master-slave relationship does not pertain to Hegel's understanding of men and women in marriage, this is not to claim that, for Hegel, women were second-class citizens in their own family (see LNR, §§82–3).
 46. See John McCumber, 'Substance and Reciprocity in Hegel', *Owl of Minerva* 35 (2004), p. 11.

47. See McCumber, 'Substance and Reciprocity in Hegel', p. 13.
48. Jean-Philippe Deranty, 'The "Son of Civil Society": Tensions in Hegel's Account of Womanhood', *Philosophical Forum* 31 (2000), p. 145. See also Heidi M. Ravven, 'Has Hegel Anything to Say to Feminists?' *Owl of Minerva* 19 (1988), pp. 149–68. Steinberger claims simply that Hegel's views are 'paradoxical' and cannot be reconciled with each other: see Steinberger, *Logic and Politics*, p. 188.
49. Deranty, 'The "Son of Civil Society"', p. 148.
50. Deranty, 'The "Son of Civil Society"', p. 148.
51. Williams, *Hegel's Ethics of Recognition*, pp. 222, 225.
52. I have nowhere seen Hegel's use of the term *Geist* translated as 'the human spirit', instead of 'mind' or 'spirit'. I do think it is a very helpful way of understanding Hegel's use of the term, certainly with respect to its use in the *Philosophy of Right*.
53. See ES, §§393–4.
54. See Neuhouser, *Foundations of Hegel's Social Theory*, pp. 331–2 n. 61.
55. Franco, *Hegel's Philosophy of Freedom*, p. 244. See also Deranty, 'The "Son of Civil Society"', pp. 154, 157.
56. I am sympathetic with Hardimon, *Hegel's Social Philosophy*, p. 187.

Chapter 6. Law

1. See Harry Brod, *Hegel's Philosophy of Politics: Idealism, Identity, and Modernity* (Boulder, CO: Westview, 1992), pp. 38, 79; Tony Burns, *Natural Law and Political Ideology in the Philosophy of Hegel* (Aldershot: Avebury Press, 1996); Knowles, *Hegel and the Philosophy of Right*, p. 128 (claims Hegel held a non-traditional understanding of natural law); George Whitecross Paton, *A Textbook of Jurisprudence*, 4th edn, (eds) G. W. Paton and David P. Derham (Oxford: Clarendon, 1972), pp. 114–15; Terry Pinkard, 'Constitutionalism, Politics and the Common Life', in H. Tristram Engelhardt, Jr and Terry Pinkard (eds), *Hegel Reconsidered: Beyond Metaphysics and the Authoritarian State* (Dordrecht: Kluwer, 1994), p. 177; H. A. Rommen, 'In Defense of Natural Law', in Sidney Hook (ed.), *Law and Philosophy* (New York, NY: New York University Press, 1964), p. 116; Kevin Thompson, 'Institutional Normativity', in Robert R. Williams (ed.), *Beyond Liberalism and Communitarianism* (Albany, NY: State University of New York Press, 2001), p. 42; and Ernest J. Weinrib, 'Legal Formalism', in Dennis Patterson (ed.), *A Companion to Philosophy of Law and Legal Theory* (Oxford: Blackwell, 1996), p. 338. See also Williams, *Hegel's Ethics of Recognition*, pp. 94–6.
2. See Popper, *The Open Society and Its Enemies*, p. 41. See also pp. 66, 395.
3. See L. B. Curzon, *Jurisprudence: Q & A Series* (3rd edn), (London: Cavendish Publishing, 1996), p. 179; Giorgio del Vecchio, *Philosophy of Law* (8th edn), (trans.) Thomas Owen Martin (Washington, DC: Catholic University of America Press, 1952), pp. 123, 125–9; R. W. M. Dias, *Jurisprudence* (5th edn), (London: Butterworths, 1985), pp. 384–5; M. D. A. Freeman, *Lloyd's*

- Introduction to Jurisprudence* (6th edn), (London: Sweet & Maxwell, 1994), pp. 783–5; and Paton, *A Textbook of Jurisprudence*, pp. 114–15.
4. See Curzon, *Jurisprudence*, p. 212 and Freeman, *Lloyd's Introduction to Jurisprudence*, pp. 838–40, 853.
 5. See Costa Douzinas, 'Identity, Recognition, Rights or What Can Hegel Teach Us About Human Rights?' *Journal of Law and Society* 29 (2002), pp. 379–405 and Michael Salter and Julia A. Shaw, 'Towards a Critical Theory of Constitutional Law: Hegel's Contribution', *Journal of Law and Society* 21 (1994), pp. 464–86.
 6. See Curzon, *Jurisprudence*, pp. 110–16. Some, such as Michael Hoffheimer, claim that while Hegel's legal thought may be appealing to postmodernists, 'Hegel's ultimate position remains deeply ambiguous'. See Michael H. Hoffheimer, 'Hegel's First Philosophy of Law', *Tennessee Law Review* 62 (1995), pp. 823–74, esp. p. 851. See also Thom Brooks, 'Hegel's Ambiguous Contribution to Legal Theory', *Res Publica* 11 (2005), pp. 85–94.
 7. See Thom Brooks, 'Between Natural Law and Legal Positivism: Dworkin and Hegel on Legal Theory', *Georgia State University Law Review* 23 (2007), forthcoming. This chapter is a substantially redrafted version of the views first presented in that paper.
 8. The natural law tradition, not unlike many other major schools of thought, is a wide tent inclusive of a number of general characteristics. I cannot hope here to discuss every property ascribed to natural law theories, if only because of the large number of major figures and philosophical positions that would deserve discussion and become a chapter unto itself. Rather, I wish only to highlight those central features of perhaps all natural law theories. On natural law in general, see Brian Bix, 'Natural Law Theory' in Dennis Patterson (ed.), *A Companion to Philosophy of Law and Legal Theory* (Oxford: Blackwell, 1996), pp. 223–40; Brian Bix, 'Natural Law: The Modern Tradition', in Jules Coleman and Scott Shapiro (eds), Kenneth Einar Himma (assoc. ed.), *The Oxford Handbook of Jurisprudence and Philosophy of Law* (Oxford: Oxford University Press, 2002), pp. 61–103; and Freeman, *Lloyd's Introduction to Jurisprudence*, pp. 79–203.
 9. Cited in Freeman, *Lloyd's Introduction to Jurisprudence*, pp. 130–1 and Bix, 'Natural Law Theory', p. 224.
 10. On legal positivism, see Jules L. Coleman and Brian Leiter, 'Legal Positivism' in Dennis Patterson (ed.), *A Companion to Philosophy of Law and Legal Theory* (Oxford: Blackwell, 1996), pp. 241–60 and Freeman, *Lloyd's Introduction to Jurisprudence*, pp. 205–69.
 11. John Austin, *The Province of Jurisprudence Determined*, (ed.) H. L. A. Hart (Indianapolis, IN: Hackett, 1954), p. 9.
 12. Austin, *The Province of Jurisprudence Determined*, p. 184.
 13. For a robust defence of the separability thesis as a central plank of legal positivism, see Matthew H. Kramer, *In Defense of Legal Positivism: Law without Trimmings* (Oxford: Oxford University Press, 1999).
 14. Cited in Freeman, *Lloyd's Introduction to Jurisprudence*, p. 130.

15. See Augustine, *The City of God against the Pagans*, (ed.) R. W. Dyson (Cambridge: Cambridge University Press, 1998) and Thomas Aquinas, *Political Writings*, (ed.) R. W. Dyson (Cambridge: Cambridge University Press, 2002), and John Finnis, *Aquinas: Moral, Political, and Legal Theory* (Oxford: Oxford University Press, 1998).
16. See John Finnis, *Natural Law and Natural Rights* (Oxford: Oxford University Press, 1980), pp. 81–94.
17. See Lon L. Fuller, *The Morality of Law* (revised edn) (New Haven, CT: Yale University Press, [1964] 1969), pp. 33–94.
18. Cited in Freeman, *Lloyd's Introduction to Jurisprudence*, p. 130.
19. See, for example, Torben Spaak, 'Legal Positivism, Law's Normativity, and the Normative Force of Legal Justification', *Ratio Juris* 16 (2003), p. 471.
20. See PH, pp. 5, 22, 111 and Knowles, *Hegel and the Philosophy of Right*, p. 274.
21. See NL, p. 163 and PH, p. 41: 'To the ideal of freedom, law, and morality are indispensably requisite'. See also pp. 163, 289. Moreover, for Hegel, legal right is grounded in and supersedes the section 'morality [*Moralität*]' in the *Philosophy of Right* (see PR, §§105–41, 144, 213, esp. §§141, R, A).
22. See LNR, §8R and PH, p. 99.
23. H. B. Nisbet notes in his translation of the *Philosophy of Right* that Hegel enjoyed 'exploiting the etymological affinity of words to suggest a semantic affinity. In this case, the noun *Gesetz* ("law") echoes the verb *gesetzt* ("posited")'. Thus, in his native German language, Hegel found something profound about this particular relationship, as in his view all laws are always posited until law becomes commensurate with actual right, or justice. For this reason, the fact that *Gesetz* and *gesetzt* share an etymological affinity is no accident in Hegel's eyes. See PR, §211 translator's note 'a'.
24. This picture is clear from Hegel's *Lectures on the Philosophy of History* where it is spelled out in much greater length than I have the space to do here.
25. Elsewhere I have argued that Hegel's legal theory shares a similar position with the legal theory of Ronald Dworkin. Whilst I would no longer understand this 'constructive interpretivist' position to be in between natural law and legal positivism as I have previously, I would continue to argue that Hegel's and Dworkin's views have remarkable similarities (and defects). Thus, I would understand Dworkin's legal theory to also be an example of an internalist natural law theory. See 'Between Natural Law and Legal Positivism'.
26. See PR, §3R.
27. See PH, p. 268: 'Law is part of the existing state of things, with Spirit implicit in it'.
28. Robert Stern, 'MacIntyre and Historicism', in John Horton and Susan Mendus (eds), *After MacIntyre: Critical Perspectives on the Work of Alasdair MacIntyre* (Cambridge: Polity, 1994), p. 151. See Robert Stern, 'Hegel and the New Historicism', *Bulletin of the Hegel Society of Great Britain* 21/22 (1990), pp. 60–4. In addition, Larry Laudan similarly describes the proper under-

- standing of progress as 'problem solving effectiveness' and 'the transformation of anomalous and unsolved . . . problems into solved ones'. See Larry Laudan, *Progress and Its Problems: Towards a Theory of Scientific Growth* (Berkeley, CA: University of California Press, 1977), pp. 5, 18.
29. Indeed, Hegel criticises Sparta for choosing to perfect its laws with non-legal measures, rather than through an immanent development of their own laws (see PH, p. 263).
 30. See EL, §11R.
 31. See PR, §3R.
 32. Hegel's endorsement of codification makes him strongly opposed to the historical school of jurisprudence with which he is often associated as a member by contemporary commentators. Allen Wood notes: 'It was the principal thesis of Karl Friedrich von Savigny, *Vom Beruf unserer Zeit für Gesetzgebung und Rechtswissenschaft* . . . that Germans should not follow the French example and codify their law'. PR, p. 446 editor's note 4. See Karl Friedrich von Savigny, *Of the Vocation of Our Age for Legislation and Jurisprudence*, (trans.) Abraham Hayward (New York: Argo, 1975).
 33. See NL, p. 154.
 34. Dudley Knowles argues that, for Hegel, '[c]odification is the philosopher's stone of jurisprudence': Knowles, *Hegel and the Philosophy of Right*, p. 278. See also p. 280: 'Readers may judge that Hegel's stylistic practice belies his principles, but incredible as it may seem, one principle which is constant throughout his system is his admirable and absolutely sincere insistence that the truth be *effable*, clear and simple to understand in its processes as well as its promulgations'.
 35. See PH, p. 76.
 36. See PR, §§158–81 and Chapter 5.
 37. See PR, §§162, R, 163, R, 167R, 255, R.
 38. It is noteworthy that this does not seem true for Hegel's monarch. See Chapter 7.
 39. See PR, §§324, R and LNR, §160R.
 40. See PR, §§216, R, A.
 41. This section draws from Thom Brooks, 'Plato, Hegel, and Democracy', *Bulletin of the Hegel Society of Great Britain* 53/57 (2006), pp. 24–50.
 42. See PH, pp. 251–52, 259 and Deranty, 'Hegel's Parliamentarianism'.
 43. See PR, §136R and §258R: 'Hatred of *law*, of *legally* determined *right*, is the shibboleth whereby fanaticism, imbecility, and hypocritical good in intentions manifestly and infallibly reveal themselves for what they are'.
 44. The institutions of law's administration appear in 'civil society', but are more completely manifested in 'the state'. Additionally, Hegel argues that his anti-atomistic conception of individuality is defensible on selfish individualistic grounds, as one 'cannot accomplish the full extent of his ends without reference to others' (PR, §182A) and, thus, '[t]he selfish end in its actualization, conditioned in this way by universality, established a system of all-around

- interdependence' (PR, §183): therefore, '[i]n furthering my end, I further the universal, and this in turn furthers my end' (PR, §184A, see §§192A, 265A).
45. See PR, §206R: 'The recognition and right according to which all that is rationally necessary in civil society and in the state should at the same time come into effect *through the mediation of the arbitrary will* is the more precise definition [*Bestimmung*] of what is primarily meant by the universal idea [*Vorstellung*] of freedom' (see PR, §211R and NL, pp. 144–5).
 46. See PR, §§3, 214, and 299R: 'a law [*Gesetz*], in order to be law [*Gesetz*], must be more than just a command [*Gebot*] in general . . . i.e. it must be *determinate* in itself . . . the more determinate it is, the more nearly capable its content will be of being implemented as its stands' (emphasis given) (translation modified).
 47. See PR, §318A: 'no one can achieve anything great, unless he is to despise public opinion as he here and there encounters it' (see also PR, §§308R, 309, A, 316A and ERB, p. 270).
 48. See PR, §308R and GC, pp. 16–17.
 49. See Thom Brooks, 'Plato, Hegel, and Democracy' and Popper, *The Open Society and Its Enemies*, pp. 22, 49, 59, 62, 64, 66, 287 n. 25, 310 n. 43, 395. Indeed, in his *The Philosophy of History*, Hegel argues that our obedience to our positive laws is 'not that blind and unconditional compliance which does not know what it is doing, and whose course of action is a mere groping about without clear consciousness or intelligence' as we only owe obedience ultimately 'to laws which I recognize as just' (PH, p. 380). Therefore, we need not agree with Popper that '[t]he Hegelian farce has done enough harm. We must stop it. We must speak – even at the price of soiling ourselves by touching this scandalous thing which, unfortunately without success, was so clearly exposed a hundred years ago'. Popper, *The Open Society and Its Enemies*, p. 79.
 50. See PH, p. 112.
 51. On democracy, see Robert A. Dahl, *On Democracy* (New Haven, CT: Yale University Press, 1998) and Ian Shapiro, *Democratic Justice* (New Haven, CT: Yale University Press, 1999). For a critique, see Thom Brooks, 'A Defence of Sceptical Authoritarianism', *Politics* 22 (2002), pp. 152–62 and Thom Brooks, 'Can We Justify Political Inequality?' *Archiv für Rechts- und Sozialphilosophie* 89 (2003), pp. 426–38.
 52. See PR, §§301–18.
 53. Women would be denied the right to vote. See PR, §166 and A: 'When women are in charge of government, the state is in danger, for their actions are based not on the demands of universality but on contingent inclination and opinion'.
 54. See NL, p. 233: 'while the civil laws go a long way in their specification [*das Bestimmen*], they still cannot touch on every particular'.
 55. See Knowles, *Hegel and the Philosophy of Right*, p. 277.
 56. Moreover, the integrity of the legal system is in part dependent upon the virtue of judges: 'the laws are administered by judges on whose rectitude and insight everything depends; for it is not the law which rules, but human beings who have to make it rule' (NL, p. 232).

57. One highly unfortunate aspect of Hegel's position on the public administration of justice is that he believed people should pay money in order to bring their cases to trial. Whilst he did not approve of the 'exorbitant cost' when going to court, this would entail that persons in poverty are deprived of (equal) access to the courts and, it would appear, equal justice (see *PR*, §241 and *NL*, pp. 24, 242). This would add a new worry to contemporary theorists concerned about the possibilities of those in poverty for freedom in Hegel's state.
58. See Houlgate, *Freedom, Truth, and History*, p. 101: 'the laws and customs which set out the duties of ethical consciousness do not constitute an alien authority to which consciousness must submit itself. Rather, they are recognised by the ethical individual to be institutional structures and practices in which and through which his or her *own* interests as a free being are actually articulated and fulfilled'.
59. See Tunick, *Hegel's Political Philosophy*, pp. 96–7. On Rousseau's general will, see Gopal Sreenivasan, 'What is the General Will?' *Philosophical Review* 109 (2000), pp. 545–81, reprinted in Thom Brooks, *Rousseau and Law* (Aldershot: Ashgate, 2005), pp. 3–39.
60. See *PR*, §215A and *NL*, p. 5 and Thom Brooks, 'The Right to Trial by Jury' and Thom Brooks, 'A Defence of Jury Nullification'.
61. Hegel believes that the jury determines guilt or innocence of the accused, but only the judge determines the penalties, if any (see *PR*, §§227A, 228, R).

Chapter 7. Monarchy

1. It should be noted that some commentators believe that Hegel offers distinctly different treatments of the justification and powers of the constitutional monarch in his *Philosophy of Right* and other writings, most notably Karl-Heinz Ilting. However, I agree with the work of Jean-Philippe Deranty, which clearly demonstrates that these seemingly different treatments of the monarch (as well as other state institutions) in Hegel's *Philosophy of Right* and additional writings complement each other in one coherent vision: see Deranty, 'Hegel's Parliamentarianism', pp. 107–33 and Ilting, 'The Structure of Hegel's "Philosophy of Right"', pp. 90–110.
2. One notable exception is Renato Cristi who alone argues that Hegel endorses an *absolute* monarchy, albeit a monarchy not 'bent on tyrannizing civil society and its members'. See F. R. Cristi, 'The *Hegelsche Mitte* and Hegel's Monarch', *Political Theory* 11 (1983), pp. 601–22. Karl Marx also believed Hegel endorsed an absolute monarchy. Karl Marx, *Early Political Writings* (ed. and trans.) Joseph O'Malley with Richard A. Davis (Cambridge: Cambridge University Press, 1994), p. 18.
3. See Popper, *The Open Society and Its Enemies*. Also see Haym, *Hegel und seine Zeit*, pp. 357–91 and Russell, *A History of Western Philosophy*, p. 742.
4. Popper, *The Open Society and Its Enemies*, pp. 34, 22. See also p. 47: 'The book is pure apologetics. By its appeal to the wisdom of Providence it offers an apology

- for the excellence of Prussian monarchism; by its appeal to the excellence of Prussian monarchism it offers an apology for the wisdom of Providence'. Herbert Marcuse agrees with Popper that Hegel does glorify the Prussian monarchy, although he does not think Hegel's views are consistent with totalitarianism. See Herbert Marcuse, *Reason and Revolution: Hegel and the Rise of Social Theory* (2nd edn) (London: Routledge & Kegan Paul, [1941] 1955), pp. 216, 218.)
5. See Knox, 'Hegel and Prussianism', pp. 13–29. See also Avineri, *Hegel's Theory of the Modern State*, pp. 185–89; Carritt, 'Reply', pp. 30–43; Carritt, 'Final rejoinder', pp. 48–52; Knox, 'Rebuttal', pp. 44–7; and Z. A. Pelczynski, 'Hegel's Political Philosophy: Some Thoughts on its Contemporary Relevance', in Z. A. Pelczynski (ed), *Hegel's Political Philosophy: Problems and Perspectives* (Cambridge: Cambridge University Press, 1971), pp. 230–5.
 6. See PR, §§227A and 228R (on jury trials), 291 (on civil service), and 298–320 (on the Estates).
 7. See Avineri, *Hegel's Theory of the Modern State*, p. 187; Hardimon, *Hegel's Social Philosophy*, p. 215; Steven V. Hicks, *International Law and the Possibility of a Just World Order: An Essay on Hegel's Universalism* (Amsterdam: Rodopi, 1999), p. 173; Sidney Hook, 'Hegel and His Apologists', in Walter Kaufmann (ed.), *Hegel's Political Philosophy*, p. 90; Knowles, *Hegel and the Philosophy of Right*, p. 327; Michael Levin and Howard Williams, 'Inherited Power and Popular Representation: A Tension in Hegel's Political Theory', *Political Studies* 35 (1987), p. 114; Z. A. Pelczynski, 'The Hegelian Conception of the State', in Z. A. Pelczynski (ed.), *Hegel's Political Philosophy: Problems and Perspectives* (Cambridge: Cambridge University Press, 1971), p. 25; Pelczynski, 'Hegel's Political Philosophy', p. 231; Leo Rauch, 'Hegel, Spirit, and Politics', in Robert C. Solomon and Kathleen M. Higgins (eds), *The Age of German Idealism* (London: Routledge, 1993), p. 285; Reyburn, *The Ethical Theory of Hegel*, p. 252; Smith, *Hegel's Critique of Liberalism*, p. 152; and Mark Tunick, 'Hegel's Justification of Hereditary Monarchy', *History of Political Thought* 12 (1991), p. 482.
 8. Marx, *Early Political Writings*, p. 1. See George Sabine, *A History of Political Theory* (3rd edn) (New York: Rinehart & Winston, 1961), p. 663.
 9. In *A Hegel Dictionary*, Michael Inwood surprisingly does not include an entry for the monarch, saying no more than '[The monarch] has the final decision in the appointment of executives and in acts of state such as the declaration of war, but his decisions are guided by expert advice. He is not an absolute, but a constitutional monarch'. This scant treatment is evidence of the general lack of importance often attributed to the monarch by contemporary commentators. See Inwood, *A Hegel Dictionary*, p. 279. See also Bernard Yack, 'The Rationality of Hegel's Concept of Monarchy', *American Political Science Review* 74 (1980), p. 715: 'it seems that the constitution is a monarchy only in name, while, in fact, it is a bureaucracy, the rule of public officials'.
 10. Hardimon, *Hegel's Social Philosophy*, p. 215 (emphasis added). See Allen W. Wood, 'Introduction', in PR, p. xxiv: 'Hegel plainly intends real political

- power to be in the hands neither of the prince nor of the people, but of an educated class of professional civil servants' and Pelczynski, 'Hegel's Political Philosophy', p. 234.
11. Steinberger, *Logic and Politics*, p. 222. See Tunick, 'Hegel's Justification of Hereditary Monarchy', pp. 481–96 and Yack, 'The Rationality of Hegel's Concept of Monarchy', pp. 711, 716.
 12. The classic justification of monarchy is the divine right theory of kings as put forward by Sir Robert Filmer in his *Patriarcha*. He argues that the rule of a monarch best ensures the liberty of his people: Robert Filmer, *Patriarcha and Other Writings*, (ed.) Johann P. Sommerville (Cambridge: Cambridge University Press, 1991), p. 4. In addition, Filmer claims that the right of kings to rule descends from the fact that God gave Adam dominion over the world. Since Adam, kings rule their people as a father has authority over his children. Filmer says: 'To confirm this natural right of regal power, we find in the decalogue that the law which enjoins obedience to kings is delivered in terms of "honour thy father" as if all power were originally in the father' (pp. 11–12). In addition, he claims that the apparent absence of other forms of government from any mention in the Bible further supports the view that God sanctions the existence of monarchy alone (pp. 7, 23). The classic refutation of Filmer's *Patriarcha* is John Locke's *The First Treatise on Government* where he argues that in *Patriarcha* 'there was never so much glib nonsense put together in well sounding English'. John Locke, *First Treatise on Government* in his *Two Treatises on Government*, pp. 137–8.
 13. See Thomas Hobbes, *Leviathan*, (ed.) Richard Tuck (Cambridge: Cambridge University Press, [1651] 1996), pp. 117–21 (chapter 17). Nor does Hegel claim the monarch is justified on the grounds that he fulfills some 'symbolic role' the monarchy might play for citizens. I, therefore, disagree with Terry Pinkard. See Pinkard, *Hegel's Phenomenology*, p. 328 and Alan Brudner, 'Constitutional Monarchy as the Divine Regime: Hegel's Theory of the Just State', *History of Political Thought* 2 (1981), p. 127.
 14. Perhaps one of the better treatments of Hegel's justification of the monarch – as it takes Hegel's logic into account – is Alan Brudner's 'Constitutional Monarchy as the Divine Regime', pp. 119–40.
 15. PR, §279A (emphasis added) (translation modified).
 16. My view is thus *contra* Pelczynski's claim that '[a]part from an obscure metaphysical argument . . . Hegel can only justify his preference for monarchical sovereignty on the not very strong grounds of expediency'. Pelczynski, 'Hegel's Political Philosophy', p. 231. Prudential reasons do appear in Hegel's account, but it is the so-called 'obscure metaphysical argument' that does the primary work on the question of why, for Hegel, the rational state must be a monarchy, as I will demonstrate in this section.
 17. See Cristi, 'The Hegelsche Mitte and Hegel's Monarch', p. 618.
 18. Knowles, *Hegel and the Philosophy of Right*, p. 327 (emphasis given).
 19. It might appear that Hegel does, in fact, justify hereditary monarchy as a way

- of preventing the formation of factions. However, this reading is not supported by Hegel in *PR* at §281R: ‘If the mode of succession is clearly defined – i.e., if the throne is inherited – the formation of factions is prevented when the throne falls vacant; this circumstance has long been cited, and rightly so, in support of hereditary succession. Nevertheless, this aspect is merely a consequence, and if it is made into a *ground* [*Grund*], it debases [the monarch’s] majesty to the sphere of ratiocination . . . [grounding] it not upon the Idea of the state which is immanent within it, but on something *outside it*’ (emphasis given). It does seem true that Hegel does, in fact, argue that the justification of the hereditary monarch is further supported by the fact that factions are prevented, however, it is important to note that this is not, in fact, the monarchy’s primary justification.
20. Marcuse, *Reason and Revolution*, p. 218. Karl Marx believes that Hegel’s monarch is ‘the *actual incarnation* of the Idea’. Marx, *Early Political Writings*, p. 5 (emphasis given).
 21. The section ‘objective spirit’ is found at Hegel, *Philosophy of Mind*, §§483–552. On Hegel’s claim that his *Philosophy of Right* is an elaboration of ‘objective spirit’ and, thus, to be understood as part of his philosophical system, see Hegel, *PR*, §§2R, 3R, 4R, 7R, 8R, 26R, 31, R, 33R, 34R, 48R, 57R, 78, 88, 95, 148R, 161, 163R, 181, 256R, 258R, 270R, 278, 279R, 280R, 281R, 302R, and 324R. Note that most of the references to his logic and system are made in his revised ‘remarks’ in later editions of the *Philosophy of Right*. There is no doubt, however, about how Hegel wanted readers to understand the *Philosophy of Right*: that is, as part of his system of speculative philosophy developed from his *Logic*.
 22. See *EL*, §6R: ‘we have to presuppose that the reader has enough education to know . . . what is there is partly *appearance* and only partly actuality . . . a contingent existence does not deserve to be called something-actual in the emphatic sense of the word; what contingently exists has no greater value than that which something-possible has; it is an existence which (although it is) can just as well *not be*. But when I speak of actuality, one should, of course, think about the sense in which I use this expression, given the fact that I dealt with actuality too in a quite elaborate [*Science of*] *Logic*’ (emphasis given).
 23. See *SL*, p. 37 and *PR*, §2.
 24. Indeed, Hegel calls the application of his logic the ‘animating soul’ (*EL*, §24A2).
 25. See *PR*, §§273R, 279R, A, 281.
 26. See *LNR*, §§137, R, 138, R.
 27. See Marx, *Early Political Writings*, p. 5.
 28. See *ES*, §542. Hegel says that ‘the business of our science’ is ‘the rationality of right’, ‘a philosophical science of the state [*philosophischer Wissenschaft des Staats*]’ (*PR*, pp. 14A, 17).
 29. *PR*, §§4, A: ‘The ground [*Boden*] of right is the *realm of spirit* in general and its precise location and starting point [*Ausgangspunkt*] is the *will*; the will is *free*, so

- that freedom constitutes its substance and destiny [*Bestimmung*] and the system of right is the realm of realized freedom [*wirklichten Freiheit*] . . . that which is free is the will. Will without freedom is an empty word, just as freedom is actual only as will or as subject' (translation modified) (emphasis given). See ES, §484: 'the purposive action of the will is to realize its concept, freedom [*die Freiheit*], in these externally objective aspects, making the latter a world moulded by the former, which in it is thus at home with itself . . . the concept accordingly perfected to the Idea. Freedom, shaped into the actuality of a world, receives the *form of Necessity*' (translation modified). See also PR, §§31, R, 32, R, A.
30. See LNR, §§131, R; ES, §541R. Perhaps interestingly, Hegel did not believe the judiciary formed an independent branch of government. Instead, the judiciary is seen as part of the executive because the executive's duties are to apply the universal in particular (and often contingent) cases. See Hegel, PR, §§272A, 287, 290A. For the view that Hegel's separation of powers is instead between the 'legislative, executive, and judicial' branches, which I would dispute, see Houlgate, *Freedom, Truth and History*, p. 124.
 31. See PR, §§273, R, A, 275, A, 279, R.
 32. See PR, §§273, R, 279R. See ES, §544: 'The true difference of [other forms of government] from genuine monarchy depends on the true value of those principles of right which are in vogue and have their actuality and guarantee in the state-power. These principles are those expounded earlier, liberty of property, and above all personal liberty, civil society, with its industry and its communities, and the regulated efficiency of the particular bureaux in subordination to the laws'.
 33. Bernard Yack argues that here Hegel cannot be correct: 'Hegel's logic cannot teach us the rational necessity of hereditary monarchy. We can learn about it only by analyzing the institutions of the modern world in their actual historical context . . . It cannot be deduced from logical principles'. Yack, 'The Rationality of Hegel's Concept of Monarchy', pp. 711, 712. I believe Yack misunderstands how Hegel's logic relates to institutions. For Hegel, logic does not create institutions from nothing: it is a 'comprehension of the present and actual, not the setting up of a world beyond which exists God knows where' (PR, 20). Instead, logic enables us to derive meaning from historical institutions. That is, logic alone recognises the internal rationality of institutions and knowledge of which are more consistent with certain demands of rationality than other institutions. Logic then cannot be said to 'create' monarchy or any other social practice. On the contrary, the proper analysis of modern institutions must take into consideration their logical context and not simply their historical context. Of course, today's world differs in many respects from Hegel's time. Perhaps Hegel's analysis of institutions would be different if democracies were more common at the time of his writing the *Philosophy of Right*, instead of monarchy. We can only speculate. That said, this would not take anything away from the fact that Hegel provides us with a defence of a particular kind of monarchy, not liberal democracy. Hegel reminds us that

- 'philosophy, at any rate, always comes too late to perform this task . . . the owl of Minerva only begins its flight with the onset of dusk' (PR, 23 (modified translation)). Thus, philosophy has an historical character, as our knowledge of the world is conditioned by the times we live in: 'philosophy . . . is its own time grasped in thoughts' (PR, 21 (modified translation)). However, I am not convinced that Hegel would prefer modern democracy to his constitutional monarchy nor is there clear evidence in support of such a view. For example, see Brooks, 'Plato, Hegel, and Democracy'. In any event, my task here is not to speculate on positions Hegel might have held, but rather to examine a view he clearly held on monarchy, a view contemporary readers have oft misunderstood. I am grateful to an anonymous referee from *History of Political Thought* for pushing me on this point.
34. See PR, §§302; PH, p. 46.
 35. ES, §542R (translation modified). See PR, §279R: 'One and the same concept – in this case – which begins by being abstract (because it is itself the beginning), retains its character yet [at the same time] consolidates its determinations . . . and thereby acquires a concrete content. Thus, it is the basic moment of personality, initially abstract in [the sphere of] immediate right, which has continued to develop through its various forms of subjectivity until at this point, in [the sphere of] absolute right, in the state, and in the completely concrete objectivity of the will, it becomes the *personality of the state, its certainty of itself*'.
 36. See Smith, *Hegel's Critique of Liberalism*, p. 154.
 37. See PR, §§201–6, 298–318.
 38. Indeed, several commentators have wrongly believed that an elected prime minister or a president is at least as acceptable for Hegel here as a monarch. See, for example, Avineri, *Hegel's Theory of the Modern State*, p. 186; Franco, *Hegel's Philosophy of Freedom*, p. 314; Hicks, *International Law and the Possibility of a Just World Order*, p. 173; Levin and Williams, 'Inherited Power and Popular Representation', p. 106; and Pelczynski, 'Hegel's Political Philosophy', pp. 232–3. These commentators fail to appreciate Hegel's prohibition against voting for a person who must represent the state, as well as falsely believe that 'the monarch is stripped of actual government power' as I will endeavour to show in the following sections *contra* Pelczynski, 'Hegel's Political Philosophy', p. 232.
 39. See Brudner, 'Constitutional Monarchy as the Divine Regime', p. 127 and Steinberger, *Logic and Politics*, p. 220.
 40. See LNR, §138R; PR, §§275, 300.
 41. Thus, Hegel characterises the monarch as occupying the highest part of the constitution: his office gives the state the organic unity it needs to best satisfy the development of freedom for all. See PR, §§275, A, 276A, 278R, 279, R, A, 281, R, A, 285.
 42. See PR, §280A. I shall return to the question of how important the monarch is in sections III and IV exploring his powers.
 43. See PR, §280R and GC, pp. 21, 64.

44. I agree with Michael Petry that 'the philosophical structure of the *Philosophy of Right* is simply part of the overall structure of the *Encyclopaedia*, and in itself is essentially irrelevant to practical politics'. Petry, 'Hegel and "The Morning Chronicle"', p. 21. See Duncan Forbes, 'Introduction', in G. W. F. Hegel, *Lectures on the Philosophy of World History: Introduction: Reason in History*, (trans.) H. B. Nisbet (Cambridge: Cambridge University Press, 1975), p. xxx. Thus, I agree, in part, with Z. A. Pelczynski, although I would not agree with him that this means that institutions cannot have *any* 'practical significance'. See Pelczynski, 'An Introductory Essay', p. 135.
45. This is precisely Mark Tunick's argument. Even though it is true that 'Hegel is unimpressed by nonfoundational justifications', Tunick also argues, 'Hegel *does* consistently maintain that ultimately his metaphysics privileges his version of the concept . . . of a practice. But this need not prevent us from appropriating Hegel's interpretation of the purpose or principle of a practice without privileging it, as Hegel does in giving it a metaphysical grounding. There is a "nonfoundational" interpretation of Hegel's claim that hereditary monarchy is justified by *its*, as opposed to *the*, concept'. Tunick, 'Hegel's Justification of Hereditary Monarchy', p. 490.
46. See Brod, *Hegel's Philosophy of Politics*, pp. 153–4; Brudner, 'Constitutional Monarchy as the Divine Regime', p. 128; Pelczynski, 'An Introductory Essay', pp. 100, 126; Pelczynski, 'Hegel's Political Philosophy', p. 232; Pinkard, *Hegel's Phenomenology*, p. 328; Pinkard, *Hegel*, p. 486; Paul Redding, 'Philosophical Republicanism and Monarchism – and Republican and Monarchical Philosophy – in Kant and Hegel', *Owl of Minerva* 26 (1994), p. 37; Judith N. Shklar, *Freedom and Independence: A Study of the Political Ideas of Hegel's Phenomenology of Mind* (Cambridge: Cambridge University Press, 1976), p. 155; Steinberger, *Logic and Politics*, pp. 211–12; Tunick, 'Hegel's Justification of Hereditary Monarchy', pp. 491–2; Wood, *Hegel's Ethical Thought*, pp. 13, 282 n. 5; and Allen W. Wood, 'Editor's Introduction' in *PR*, p. xxiv.
47. This famous passage appears in lecture additions attributed to Hegel by his students. To my knowledge, only Knowles correctly recognises a certain tension between Hegel's own written sections and additions to these sections attributed to him by his students from Hegel's lectures on the *Philosophy of Right*. Knowles claims we can discern both a 'hard reading' from Hegel's own sections and a 'soft reading' from the additions attributed to him. Thus, the hard reading emphasises the ways in which the monarch is 'the crucial element in "the legislative power as a whole"', having 'the power of ultimate decision'; the soft reading emphasises the monarch's dependence on executive officials and that the monarch need do little more than sign his own name to legislation. Of course, the two readings are complementary: see Knowles, *Hegel and the Philosophy of Right*, p. 329.
48. Yack, 'The Rationality of Hegel's Concept of Monarchy', pp. 716, 714.
49. See Avineri, *Hegel's Theory of the Modern State*, p. 188.
50. Findlay, *Hegel*, p. 325 (emphasis given).

51. See *LNR*, §§77R, 82, R and *PR*, §§166, R.
52. Instead, the women's 'substantial vocation' is not to run a state, but to remain in 'the family' as mothers and caregivers in a traditional role. See *PR*, §166 and Chapter 5.
53. See Deranty, 'Hegel's Parliamentarianism', pp. 118–19; Franco, *Hegel's Philosophy of Freedom*, p. 316 and G. W. F. Hegel, *Hegel's Aesthetics: Lectures on Fine Art*, I, (trans.) T. M. Knox (Oxford: Oxford University Press, 1975), pp. 193–4. Renato Cristi argues that Hegel's monarch has absolute power, at least insofar as the only 'the monarch is granted absolute powers of decision'. See Cristi, 'The *Hegelsche Mitte* and Hegel's Monarch', p. 608. See also Deranty, 'Hegel's Parliamentarianism', p. 115.
54. Findlay, *Hegel*, p. 324 (emphasis given). See Hardimon, *Hegel's Social Philosophy*, p. 214 and Pelczynski, 'Hegel's Political Philosophy', pp. 232–3. See also the discussion of the monarch's limited powers as 'ethical' in Houlgate, 'The Unity of Theoretical and Practical Spirit in Hegel's Concept of Freedom', p. 879.
55. Steinberger, *Logic and Politics*, p. 221.
56. See *PR*, §§153, 185R, 189, 262A.
57. See *PR*, §§124R, 153.
58. As the hereditary succession of kings prevents 'the formation of factions', the monarch may not have the choice of abdicating the throne. See *PR*, §§281R, 286, and, in particular, 286R: 'Thus, public freedom in general and a hereditary succession guarantee each other reciprocally, and their association [*Zusammenhang*] is absolute, because public freedom is the rational constitution, and the hereditary character of the power of the sovereign is, as has already been shown, the moment inherent in its concept'. The natural succession of the throne is to be supervised by Hegel's legislative body, the Estates. See *LNR*, §157. If the monarch should die without an heir, then Hegel tells us that 'the estates of the realm must see to it that a new dynasty ascends the throne without disturbances' (*LNR*, §157R). However, it would appear that the complete rationality of the state is assured only when the monarchy is inherited and chosen by the lottery of nature, rather than the arbitrary selection of estates or the citizenry.
59. Cristi argues the opposite case: 'He is allowed full enjoyment of his subjectivity and freedom. But he is alone in this. Only he can dwell in liberal self-determination'. F. R. Cristi, 'Hegel and Roman Liberalism', *History of Political Thought* 5 (1984), p. 294.
60. We might be led to think then that there is a conflict between this picture of a monarch who must both satisfy a certain minimum of rational competence alongside his 'naturalness' (e.g., his enjoying his office by inheritance). For Hegel, these *ought* not conflict, although they may. The average citizen of the just state will each recognise the necessity of the monarch, the need for him to inherit his office, and the importance of his decisions for the state. To this extent, any rational citizen born into the monarchy should welcome his position. Of course, Hegel's state may be rational, but fall well short of

- actuality (see PR, p. 20). I am grateful to an anonymous referee at the *History of Political Thought* for pushing me on this point.
61. Pelczynski, 'An Introductory Essay', p. 111. He adds at p. 111 n. 1: 'Oddly enough, Locke reached a similar conclusion in the *Second Treatise of Civil Government*. In paragraphs 157 and 158 he justifies an arbitrary use of the royal prerogative to abolish rotten boroughs on the ground of rationality and concludes that "whatsoever cannot but be acknowledged to be of advantage to the society and people in general upon just and lasting measures, will always, when done, justify itself"'.
 62. It is tempting to suppose that Hegel's monarch is a variety of philosopher-king: each must possess knowledge of governance in order to rule, as well as take their privileged political position as a birthright. There are many differences, not least that Hegel's monarch recognises the need for himself to rule, whereas Plato's philosopher-king reluctantly pursues his task, even risking his life to do so. See Thom Brooks, 'Knowledge and Power in Plato's Political Thought', *International Journal of Philosophical Studies* 14 (2006), pp. 51–77. In addition, Plato's philosopher-kings rule with absolute power, while Hegel's monarch rules in tandem with his cabinet and elected legislature. Whilst both find privileging knowledge in governance important, they each do so in different ways. I am grateful to Ali Madanipour for pushing me on this point.
 63. LNR, §133R. Hegel complains elsewhere that, in his view, the English monarchy is 'too weak'. See ERB, p. 248. See also ERB, p. 261: 'Consequently, the monarch's share in the executive power is more illusory than real, and its substance lies with Parliament'.
 64. It is undeniable that Hegel carves out an autonomous sphere for the monarchy, as he does for other part of his rational state (see PR, §286). This sphere of action (detailed in what follows) is a space where monarchy can act. Thus, there is an autonomous sphere of influence for monarchy and Hegel nowhere conceives of the office as relatively powerless. The question then becomes what lies in this monarch's realm of political activity, an area that most scholars have found little, if any, space for the monarch to exert real influence. What follows will be my attempt to demonstrate that this space is wider and further reaching than has been previously thought, short of an endorsement of totalitarianism *as per* Popper's classic assessment. I am most grateful to Iain Hampsher-Monk for suggesting this point.
 65. See PR, §265A: 'It has often been said that the end of the state is the happiness of its citizens. This is certainly true, for if their welfare is deficient, if their subjective ends are not satisfied, and if they do not find that the state as such is the means to this satisfaction, the state itself stands on an insecure footing'. While someone, such as Hitler or Stalin, might claim to agree with this statement, it is nevertheless clear that the 'happiness' and 'subjective ends' of all their citizens were not satisfied in fact. By contrast, for Hegel, both must be fulfilled within an organic unity if the state is to become just. I am especially grateful to Leif Wenar for pushing me on this point.

66. See *LNR*, §138 and *PR*, §§275, 279–80, 283. ‘*Die fürstliche Gewalt*’ may also be translated as ‘the princely power’.
67. Elsewhere Hegel adds that in addition to ‘the executive civil servants’ there are also ‘higher consultative bodies’ which ‘necessarily work together in groups, and they converge in their supreme heads who are in touch with the monarch himself’ (*PR*, §289). Hegel suggests that these ‘higher consultative bodies’ are ‘corporations’ (see *PR*, §289R).
68. See *LNR*, §149R: ‘Legislative proposals must therefore emanate from the sovereign . . . the initiative for laws rests essentially with the power of the sovereign’.
69. It is a curiosity why *exactly* the legislature can only accept or reject bills, not propose them – we might suppose that if the legislature can perform the former duty, it can perform the latter. This is not true with Hegel’s count and he does not offer a clear argument why this is the case. The closest we might come to this is his earlier claim that particular interests should be harmonised with the universal interest, but not the other way around. When applied to lawmaking, the legislature (representing particular interests) are charged with harmonising themselves with the universal interest (represented by the universal class, the cabinet) and, thus, the legislature are charged with no more accepting or rejecting proposed laws from the cabinet (see *PR*, §261R). Instead, the best argument we get is found at *LNR*, §149R: ‘if the assembly formally proposes the laws itself, this implies its independence from the power of the sovereign . . . if the assembly also had the power to propose legislation, it would be capable of embarrassing the state power through its demands’. In addition, the legislature is unable to consult with its constituents when deciding to pass or veto proposed legislation so that they remain ‘equally bound to foster the universal interest’ (*LNR*, §149R). Hegel’s thought seems to be that while particular interests are represented in the legislature, the legislature ‘may not vote and act in the sense of a single city or class, but must vote and act in the sense of the whole’ (*LNR*, §149R). I am *extremely* grateful to Bob Stern for pushing me on this point.
70. For example, G. W. F. Hegel, *Die Philosophie des Rechts: Die Mitschriften Wannenmann (Heidelberg 1817–18) und Homeyer (Berlin 1818–19)*, (ed.) K.-H. Ilting (Stuttgart: Klett-Cotta Verlag, 1983), pp. 166–7 reprinted in Wood’s editorial note to §283 in *PR*, p. 466: ‘But the guarantee of the Estates of the realm in particular requires the monarch to take up suitable subjects, and requires that the ministers be chosen on the basis of talent, virtue, rectitude, and diligence. The Prince Regent [of England, later George IV, governing during the incompetency of his father George III] who had his friends in the opposition party and his enemies in the ministry, could not, when he took up the regency, make his friends into ministers. Hence the French ministry [in 1817 under Louis XVIII] is made up of enemies of the royal family, the ultra-loyalists. These examples show that the choice of ministers in a well-constituted monarchy is not a matter of the mere arbitrary will of the regent’.
71. See *LNR*, §140 and Franco, *Hegel’s Philosophy of Freedom*, p. 317.

72. It is important to note that this does not suggest that the relevant minister is responsible for getting the monarch to agree with him on what should become law, as this passage is equally suggestive that ministers may be held accountable if they fail to convince the monarch to avoid moving forward with a bill proposal.
73. See LNR, §154R.
74. See LNR, §139 and PR, §§282, R, A.
75. It is worth noting that, for Hegel, pardoned individuals are still technically criminals: 'the pardon does not state that he has not committed a crime' (PR, §282A).
76. For Ken Westphal, this raises a possible 'internal weakness'. He says: 'Hegel defended an inherited monarchy in part because no talent is needed to sign legislation, since the cabinet ministers are experts and are accountable for the entire content of the law [PR, §§283, 284]. But he also counted on the monarch's watchful eye from above . . . to hold the ministers accountable [see also §295]. He can't have it both ways'. Kenneth Westphal, 'The Basic Context and Structure of Hegel's *Philosophy of Right*', in Frederick C. Beiser, (ed.), *The Cambridge Companion to Hegel* (Cambridge: Cambridge University Press, 1993), p. 262.
77. See LNR, §140 and PR, §283.
78. See PR, §283: 'The appointment of individuals for [cabinet membership] and their dismissal from office fall within the [competence of the] unrestricted arbitrary will of the monarch'.
79. While he is untroubled by Hegel's use of the monarch in foreign affairs, perhaps the best understanding of the monarch in international affairs is David Boucher, *Political Theories of International Relations: From Thucydides to the Present* (Oxford: Oxford University Press, 1998), pp. 330–53, as well as Thom Brooks, 'Hegel's Theory of International Politics: Reply to Jaeger', *Review of International Studies* 30 (2004), pp. 149–52.
80. See Brod, *Hegel's Philosophy of Politics*, pp. 155–6; Franco, *Hegel's Philosophy of Freedom*, p. 317; Pelczynski, 'An Introductory Essay', p. 105; Pelczynski, 'Hegel's Political Philosophy', p. 232; and Yack, 'The Rationality of Hegel's Concept of Monarchy', p. 713.
81. See, for example, Robert Arp, 'Hegel and the Prospect of Perpetual Peace', *Dialogos* 74 (1999), pp. 71–100; Kimberly Hutchings, *International Political Theory: Rethinking Ethics in a Global Era* (London: Sage, 1999), pp. 91–120; Hans-Martin Jaeger, 'Hegel's Reluctant Realism and the Transnationalisation of Civil Society', *Review of International Studies* 28 (2002), pp. 497–517; Adriaan Peperzak, 'Hegel contra Hegel in his Philosophy of Right: the Contradictions of International Politics', *Journal of the History of Philosophy* 32 (1994), pp. 241–63; Mark Shelton, 'The Morality of Peace: Kant and Hegel on the Grounds for Ethical Ideals', *Review of Metaphysics* 54 (2000), pp. 379–408.
82. See Smith, *Hegel's Critique of Liberalism*, p. 155 and Tunick, 'Hegel's Justification of Hereditary Monarchy', p. 492. See also Steinberger, *Logic and Politics*,

- p. 225: 'there is a sense in which, for Hegel, anyone could be king. The king need not be particularly intelligent or insightful, saintly or devout'.
83. See Plant, *Hegel*, p. 173.
 84. Pelczynski, 'An Introductory Essay', p. 104.
 85. See GC, p. 63 and LNR, §139.
 86. See Brooks, 'Hegel's Theory of International Relations', pp. 149–52. In addition, see PR, §§333R.
 87. See LNR, §162 and PR, §334.
 88. See PR, §324R; GC, p. 49; and NL, 141 and also Chapter 8.
 89. See LNR, §162R: 'Yet without war peoples sink into merely private life – the security and weakness that makes them an easy prey for other peoples. War is something ethically necessary'.
 90. The only check on the monarch and his cabinet's ability to wage war levied by the legislature is the latter's ability to control state revenue. If revenue was available from independent wealth and not 'extraordinary' taxation to fund a war, then this legislative check would not have the ability to prevent *in every case* the monarch and his cabinet from waging war. Without the need to gain approval for necessary funds, the legislature plays no part in decisions to go to war.
 91. The monarch is not entitled to choose absolutely anyone at all.
 92. As the monarch is not an elected representative of the people, it seems clear that not every decision he takes will be popular. It is, however, equally clear that every decision of the rational state must make the state's true interests its priority.
 93. It is impossible to imagine the United Kingdom handing all power to the Queen in a similar crisis, further underscoring the greater power of Hegel's monarch over the British monarch.
 94. Here there might appear to be some relation between Hegel's monarch and Plato's philosopher-king. There are, however, several notable differences. Unlike Plato's philosopher-king, any male can become monarch. I am inclined to think this person would need some philosophical training to ascertain the rational, but there is no defence of natural aristocracy as we find with philosopher-kings. In addition, the monarch does not rule reluctantly, but freely chooses his office, in keeping with the exercise of his subjective freedom. Thus, while both Hegel and Plato's states depend on rulers capable of sound judgement, the monarch and philosopher-king have little else in common.
 95. Pinkard, 'The Logic of Hegel's *Logic*', p. 85.

Chapter 8. Democracy

1. For example, Ian Shapiro writes: 'Authoritarian rulers seldom reject democracy outright. Instead they argue that their people are not ready for democracy "yet," that their systems are more democratic than they appear, or that the opposition is corrupt and antidemocratic – perhaps the stooge of a foreign power' and '[t]he democratic idea is close to nonnegotiable in today's world':

- Ian Shapiro, *The State of Democratic Theory* (Princeton, NJ: Princeton University Press, 2003), p. 1.
2. See Karl R. Popper, *The Open Society and its Enemies*, vol. II: *The High Tide of Prophecy: Hegel, Marx, and the Aftermath*, 5th edn (London: Routledge & Kegan Paul, 1966), pp. 1, 34, 22. See also at p. 47; Rudolf Haym, *Hegel und seine Zeit* (Berlin, 1857), pp. 357–91.
3. Bertrand Russell, *A History of Western Philosophy* (New York: Simon & Schuster, 1945), p. 742.
4. See T. M. Knox, 'Hegel and Prussianism', in Walter Kaufmann (ed.), *Hegel's Political Philosophy* (New York: Atherton Press, 1970), pp. 13–29. See also Shlomo Avineri, *Hegel's Theory of the Modern State* (Cambridge: Cambridge University Press, 1972), pp. 185–9.
5. See Avineri, *Hegel's Theory of the Modern State*, p. 187; Michael O. Hardimon, *Hegel's Social Philosophy: The Project of Reconciliation* (Cambridge: Cambridge University Press, 1994), p. 215; Steven V. Hicks, *International Law and the Possibility of a Just World Order: An Essay on Hegel's Universalism* (Amsterdam: Rodopi, 1999), p. 173; Sidney Hook, 'Hegel and His Apologists', in Walter Kaufmann (ed.), *Hegel's Political Philosophy*, p. 90; Dudley Knowles, *Hegel and the Philosophy of Right* (London: Routledge, 2002), p. 327; Michael Levin and Howard Williams, 'Inherited Power and Popular Representation: A Tension in Hegel's Political Theory', *Political Studies* 35 (1987), p. 114; Z. A. Pelczynski, 'The Hegelian Conception of the State', in Z. A. Pelczynski (ed.), *Hegel's Political Philosophy: Problems and Perspectives* (Cambridge: Cambridge University Press, 1971), p. 25; Leo Rauch, 'Hegel, Spirit, and Politics', in Robert C. Solomon and Kathleen M. Higgins (eds), *The Age of German Idealism* (London: Routledge, 1993), p. 285; Hugh A. Reyburn, *The Ethical Theory of Hegel: A Study of the Philosophy of Right* (Oxford: Clarendon, 1921), p. 252; Steven B. Smith, *Hegel's Critique of Liberalism: Rights in Contexts* (Chicago, IL: University of Chicago Press, 1989), p. 152; and Mark Tunick, 'Hegel's Justification of Hereditary Monarchy', *History of Political Thought*, 12 (1991), p. 482.
6. I bracket here the question of whether or not the monarch is the dominant partner here as my argument does not depend on it. That said, I do argue elsewhere that the monarch is more powerful than his ministers. See Chapter 7.
7. This is a point missed surprisingly often, but noted well by Ilting. See K.-H. Ilting, 'The Structure of the Hegel's *Philosophy of Right*', in Z. A. Pelczynski (ed.), *Hegel's Political Philosophy*, pp. 103–4.
8. Plato, *Republic*, 557b, 560e. See at 572d–e; Julia Annas, *An Introduction to Plato's Republic* (Oxford: Clarendon Press, 1981), p. 300; Brooks, 'Knowledge and Power in Plato's Political Thought'; and Thom Brooks, 'Is Plato's Political Philosophy Anti-Democratic?' in E. Kofmel (ed.), *Anti-Democratic Thought* (Exeter: Imprint Academic, 2008), pp. 17–33. See also Mark Chou, 'When Democracies Fail', *Political Studies Review* 9 (2011), pp. 344–56.
9. See Beiser, *Hegel*, p. 252.

10. See PR, §§273R, 274A, 276, 278R, 290A, 302 and LNR, §167R.
11. Of course, for Hegel, the particular shape a people's political community ought to take is the rational structure of the free will in 'the system of right', as set out in the *Philosophy of Right*. See PR, §4A.
12. See Plato, *Republic*, 558c.
13. I am extremely grateful to Bob Stern for pushing me much further on this important illustration.
14. Hegel claims any state, whether a monarchy, an aristocracy, or democracy, must always have 'an individual at its head . . . for all actions and all actuality are initiated and implemented by a leader as the decisive unit' (PR, §279R).
15. On group rights, see Peter Jones, 'Group Rights and Group Oppression', *Journal of Political Philosophy* 7 (1999), pp. 353–77 reprinted in Thom Brooks (ed.), *The Global Justice Reader* (Oxford: Blackwell, 2008).
16. Plato, *Gorgias*, 517b.
17. See LNR, §129R.
18. Joseph A. Schumpeter, *Capitalism, Socialism, and Democracy* (New York: Harper Perennial, 1942), pp. 284–5.
19. On the idea of having a stake in politics, see Thom Brooks, 'Reciprocity as Mutual Recognition', *The Good Society* 21 (2012), pp. 21–35.
20. On the idea of stake-holding, see Will Hutton, *The Stakeholding Society: Writings on Politics and Economics*, ed. David Goldblatt (Cambridge: Polity, 1999).
21. See Chapter 7 and Brooks, 'No Rubber Stamp'.
22. Knowles, *Hegel and the Philosophy of Right*, pp. 335–6.
23. Aristotle, *Politics* in his *The Complete Works of Aristotle*, vol. II, ed. Jonathan Barnes (Princeton, NJ: Princeton University Press, 1984), 1273b5–6 (Book II).
24. See also Thom Brooks, 'Equality and Democracy: The Problem of Minimal Competency', *Ethical Perspectives* 14 (2007), pp. 3–12.
25. Similar concerns have been stated in support of the House of Lords in the United Kingdom, a parliamentary chamber where most members are selected based upon the relevant expertise they might contribute to law-making and public policy.
26. See Hegel, LNR, §138 and Hegel, PR, §§275, 279–80, 283. '*Die fürstliche Gewalt*' may also be translated as 'the princely power'.
27. For example, see G. W. F. Hegel, *Die Philosophie des Rechts: Die Mitschriften Wannenmann (Heidelberg 1817–1818) und Homeyer (Berlin 1818–1819)*, ed. K.-H. Ilting (Stuttgart: Klett-Cotta Verlag, 1983), pp. 166–7 (reprinted in Wood's editorial note to §283 in PR, p. 466).
28. Elsewhere, Hegel adds that in addition to 'the executive civil servants' there are also 'higher consultative bodies' that 'necessarily work together in groups, and they converge in their supreme heads who are in touch with the monarch himself' (PR, §289). Hegel suggests that these 'higher consultative bodies' are 'corporations' (see PR, §289R).
29. Hardimon, *Hegel's Social Philosophy*, p. 219.

30. Perhaps the reason why the Estates cannot propose legislation is due to Hegel's view that particular interests should be harmonised with the universal – and not the other way around. Thus, the Estates (representing particularity) need only confirm their agreement or disagreement with proposals brought before them by the universal class, the cabinet ministers (see PR, §261R).
31. T. H. Green, *Lectures on the Principles of Political Obligation and Other Writings*, eds Paul Harris and John Morrow (Cambridge: Cambridge University Press, 1986), pp. 89–106 [§§113–36]. See PR, §268A.
32. Hardimon, *Hegel's Social Philosophy*, p. 215 (emphasis added). While Hegel is quite clear that the monarch is meant to act as a clear restraint on the powers of the bureaucracy, it is unclear how effective the monarch can be (see PR, §§295A, 297). After all, the bureaucrats seem to have sole control over the education of future members, who form the pool of potential ministers. There is no check on their education or suitability for office beyond the monarch's decision to appoint or remove members of this pool of potential ministers.
33. Allen W. Wood, 'Introduction', in PR, p. xxiv.
34. See Jonathan Wolff, *An Introduction to Political Philosophy* (Oxford: Oxford University Press, 1996), pp. 75, 77.
35. Robert A. Dahl, *On Democracy* (New Haven, CT: Yale University Press, 1998), pp. 70–1 (emphasis original).
36. See Franco, *Hegel's Philosophy of Freedom*, p. 317.
37. See LNR, §149R: 'Legislative proposals must therefore emanate from the sovereign . . . the initiative for laws rests essentially with the power of the sovereign.'
38. See Thomas Christiano, *The Rule of the Many* (Boulder, CO: Westview Press, 1996); Thomas Christiano, 'An Argument for Egalitarian Justice and Against the Levelling Down Objection', in Joseph Campbell, Michael O'Rourke, and Harry Silverstein (eds), *Social Justice and the Law* (Cambridge, MA: MIT Press, 2005), pp. 41–65; David Estlund, 'Beyond Fairness and Deliberation: The Epistemic Dimension of Democratic Authority', in James Bohman and William Rehg (eds), *Deliberative Democracy* (Cambridge, MA: MIT Press, 1997); and Robert B. Talisse, *Democracy after Liberalism: Pragmatism and Deliberative Politics* (London: Routledge, 2005).
39. I owe this choice phrase to Fabian Freyenhagen.
40. While a non-democracy may enjoy a separation of powers, Hegel does not endorse this traditional division of power between three branches (PR, §272A).
41. I readily grant that the justifications offered for this position differ between Hegel and Schumpeter. I am grateful to Andrew Chitty for pushing me further on this important point.
42. See Thom Brooks, 'A Critique of Pragmatism and Deliberative Democracy', *Transactions of the Charles S. Peirce Society* 45 (2009), pp. 381–6.
43. There is a clear link with republican theories about democracy. See Philip Pettit, 'Depoliticizing Democracy', *Ratio Juris* 17 (2004), pp. 52–65 and Henry S. Richardson, *Democratic Autonomy: Public Reasoning about the Ends of Policy* (Oxford: Oxford University Press, 2002).

44. See Brooks, 'A Defence of Sceptical Authoritarianism'.
45. See Stacy B. Gordon, 'All Votes are not Created Equal: Campaign Contributions and Critical Votes', *Journal of Politics* 63 (2001), pp. 249–69.
46. See Brooks, 'Equality and Democracy'.
47. See Brooks, 'Can We Justify Political Inequality?'
48. For example, see Cass R. Sunstein, *Going to Extremes: How Like Minds Unite and Divide* (Oxford: Oxford University Press, 2009).
49. John R. Hibbing and Elizabeth Theiss-Morse, *Stealth Democracy: Americans' Beliefs about How Government Should Work* (Cambridge: Cambridge University Press, 2002), p. 227.
50. By looking at their criticisms of democracy, we can bracket more controversial issues pertaining to the many nuances of their full, considered alternatives and, thus, avoid getting bogged down in questions over the usefulness or applicability of Hegel's conception of the will or worries pertaining to his metaphysics.

Chapter 9. War

1. See, for example, Arp, 'Hegel and the Prospect of Perpetual Peace'; Shlomo Avineri, 'The Problem of War in Hegel's Thought', *Journal of the History of Ideas* 22 (1961), pp. 463–74; Avineri, *Hegel's Theory of the Modern State*, pp. 194–207; Edward Black, 'Hegel on War', *Monist* 57 (1973), pp. 570–83; Franco, *Hegel's Philosophy of Freedom*, pp. 330–37; Hardimon, *Hegel's Social Philosophy: The Project of Reconciliation*, pp. 230–6; Errol E. Harris, 'Hegel's Theory of Sovereignty, International Relations, and War', in Donald Phillip Verene, (ed.), *Hegel's Social and Political Thought: The Philosophy of Objective Spirit* (Sussex: Harvester Press, 1980), pp. 137–50; Hicks, *International Law and the Possibility of a Just World Order*; Inwood, *A Hegel Dictionary*, pp. 306–9; Knowles, *Hegel and the Philosophy of Right*, pp. 340–2; Thomas Mertens, 'Hegel's Homage to Kant's Perpetual Peace: An Analysis of Hegel's *Philosophy of Right* §§321–340', *Review of Politics* 57 (1995), pp. 665–91; Michael H. Mitias, *Moral Foundation of the State in Hegel's Philosophy of Right* (Amsterdam: Rodopi, 1984), pp. 176–86; Neuhaus, *Foundations of Hegel's Social Theory*, pp. 216, 218–20; Peperzak, 'Hegel contra Hegel in his Philosophy of Right', pp. 241–63; Shelton, 'The Morality of Peace', pp. 379–408; Constance Smith, 'Hegel on War', *Journal of the History of Ideas* 26 (1965), pp. 282–5; Steven B. Smith, 'Hegel's Views on War, the State, and International Relations', *American Political Science Review* 77 (1983), pp. 624–32; Smith, *Hegel's Critique of Liberalism*, pp. 156–64; H. G. Ten-Bruggencate, 'Hegel's Views on War', *Philosophical Quarterly* 1 (1950), pp. 58–60; Donald Phillip Verene, 'Hegel's account of war', in Z. A. Pelczynski, (ed.), *Hegel's Political Philosophy: Problems and Perspectives* (Cambridge: Cambridge University Press, 1971), pp. 168–80; Steven Walt, 'Hegel on War: Another Look', *History of Political Thought* 10 (1989), pp. 113–24; Williams, *Hegel's Ethics of Recognition*, pp. 334–63; and Wood, *Hegel's Ethical Thought*, pp. 28–9, 103, 278–9, n. 2.

Indeed, many of the major works exploring Hegel's contributions to political philosophy omit discussion of Hegel's views on war (and international relations) entirely. See, for example, Frederick Beiser (ed.), *The Cambridge Companion to Hegel* (Cambridge: Cambridge University Press, 1993); Dudley, *Hegel, Nietzsche, and Philosophy*; Patten, *Hegel's Idea of Freedom*; Steinberger, *Logic and Politics*; Taylor, *Hegel*; and Taylor, *Hegel and Modern Society*. In addition, the volumes *Hegel and Legal Theory* and *Hegel and Law* contain not a single assessment of Hegel's views on international law nor its impossibility. See Drucilla Cornell, Michel Rosenfeld, and David Gray Carlson (eds), *Hegel and Legal Theory* (London: Routledge, 1991) and Michael Salter (ed.), *Hegel and Law* (Aldershot: Ashgate, 2003).

2. Russell, *A History of Western Philosophy*, p. 742.
3. Popper, *The Open Society and Its Enemies*, p. 71. Of course, British Idealists, such as T. H. Green and Bernard Bosanquet, believed that Hegel's views were not inconsistent with a peaceful future without war. On the British Idealists' views on international relations, as well as their re-appropriation of Hegel's views, see David Boucher, 'British Idealism, the State, and International Relations', *Journal of the History of Ideas* (1994), pp. 671–94; David Boucher, 'British Idealist International Theory', *Bulletin of the Hegel Society of Great Britain* 31 (1995), pp. 73–89; and Peter P. Nicholson, 'Philosophical Idealism and International Politics: A Reply to Dr Savigear', *British Journal of International Studies* 2 (1976), pp. 76–83.
4. For example, those who believe that Hegel advocates neither war nor perpetual peace, see Arp, 'Hegel and the Prospect of Perpetual Peace', p. 86; Hardimon, *Hegel's Social Philosophy*, pp. 230–6; Walt, 'Hegel on War', pp. 113–24; and Williams, *Hegel's Ethics of Recognition*, pp. 334–63. Those that believe Hegel's views on war actually support perpetual peace include: Avineri, *Hegel's Theory of the Modern State*, pp. 194–207; Hicks, *International Law and the Possibility of a Just World Order*, see esp. p. 45; Peperzak, 'Hegel contra Hegel in his Philosophy of Right', pp. 241–63; Rawls, *Lectures on the History of Moral Philosophy*, p. 361; Smith, 'Hegel's Views on War, the State, and International Relations', pp. 624–32; and Smith, *Hegel's Critique of Liberalism*, pp. 156–64. Errol Harris argues similarly that: 'If contemporary mankind could pay closer attention to Hegel's teaching a salutary lesson, a lesson that would after all send us back to Kant for salvation and for the solution of international problems. A pacific federation is indeed what is required'. Harris, 'Hegel's Theory of Sovereignty, International Relations, and War', p. 148.
5. See PR, §332: 'independent states are primary wholes which can satisfy their own needs internally'. See also PR, §§259A, 322, 330A, 331; LNR, §161R; and LA, vol. II, p. 1061.
6. See SL, p. 757: 'The worst state, one whose reality least corresponds to the concept [Begriff] [of a State], insofar as it still exists, is still Idea' (translation modified).
7. See EL, §80A and Chapter 7.

8. This is not to say that Hegel denies the expression of these particular interests in the state. Indeed, the representation of individual interests is reserved for Hegel's legislative body: see PR, §§201–6, 298–318. However, it is to say that Hegel's head of state cannot be an elected official.
9. In this way, Hegel can be thought to avoid 'the domestic analogy' that 'states: international relations = individuals : domestic realm' that some have found problematic. (See Chiara Bottici, 'The Domestic Analogy and the Kantian Project of *Perpetual Peace*', *Journal of Political Philosophy* 11 (2003), pp. 392–410.
10. The few exceptions are David Boucher, *Political Theories of International Relations: From Thucydides to the Present* (Oxford: Oxford University Press, 1998), p. 343; Harris, 'Hegel's Theory of Sovereignty, International Relations, and War', pp. 137–42; Franco, *Hegel's Philosophy of Freedom*, p. 317; Mertens, 'Hegel's Homage to Kant's *Perpetual Peace*', pp. 680–5; and Westphal, 'The Basic Context and Structure of Hegel's *Philosophy of Right*', p. 260.
11. For this reason, Verene is completely off the mark when he claims: 'The genuine threat to peace is not that diplomatic relations will break down and the technical problems of such negotiations will be taken up in the physical conflict of war. The genuine threat to peace is the fact that the warrior is a type of life. Wars are the result of the frustrations that peace brings to the warrior in his drive to act out the freedom of his own being. When such frustrations are sufficiently felt by the warriors of two nations, the actual conditions for war are met and the technical, diplomatic justifications will soon be found . . . an end to war lies in a transformation of the warrior's existence'. Verene, 'Hegel's Account of War', p. 178.
12. PR, §321 (translation modified) [*Der Staat hat in dieser Bestimmung Individualität, welche wesentlich als Individuum, und im Souverän als wirkliches, unmittelbares Individuum ist*].
13. See PR, §333R: 'There is no praetor to adjudicate between states'.
14. See, for example, Findlay, *Hegel*, p. 326; Marcuse, *Reason and Revolution*, p. 222; John Plamenatz, *Man and Society*, vol. 2 (New York: McGraw Hill, 1963), pp. 260–1; and Reyburn, *The Ethical Theory of Hegel*, p. 256.
15. See Hobbes, *Leviathan*, p. 244 (chapter 31).
16. See Hobbes, *Leviathan*, p. 111 (chapter 16).
17. See Hobbes, *Leviathan*, p. 90 (chapter 13).
18. See Wood, 'Does Hegel Have an Ethics?', p. 380.
19. For the view that Hegel defends war, see Mark Tunick, 'Hegel on Political Identity and the Ties That Bind', in Robert R. Williams (ed.), *Beyond Liberalism and Communitarianism: Studies in Hegel's Philosophy of Right* (Albany, NY: State University of New York Press, 2001), p. 83. Some have tried to argue that certain wars, such as America's Civil War in the 1860s, can be best understood in Hegelian terms. See Lawrence Stepelvitch, 'War, Slavery, and the Ironies of the American Civil War: A Philosophic Analysis', in Robert R. Williams, (ed.), *Beyond Liberalism and Communitarianism: Studies in Hegel's Philosophy of Right* (Albany, NY: State University of New York Press, 2001), pp. 147–66.

20. See LNR, §162 and PR, §§333R, 334.
21. See Alexander Wendt, 'Anarchy is What States Make of It: The Social Construction of Power Politics', *International Organization* 46 (1992), pp. 391–425 and also Alexander Wendt, 'Collective Identity Formation and the International State', *American Political Science Review* 88 (1994), pp. 384–96; and Alexander Wendt, *Social Theory of International Politics* (Cambridge: Cambridge University Press, 1999). Others, such as Jaeger, have noted this similarity between Hegel's theory of international relations and Wendt's constructivism. See Rupert H. Gordon, 'Modernity, Freedom, and the State: Hegel's Concept of Patriotism', *Review of Politics* 62 (2000), p. 322, n. 97 and Jaeger, 'Hegel's Reluctant Realism and the Transnationalisation of Civil Society', p. 516. For the opposite view of anarchy, see Kenneth N. Waltz, *Man, the State, and War: A Theoretical Analysis* (New York: Columbia University Press, [1959] 2001), p. 160.
22. See, for example, Boucher, *Political Theories of International Relations*, pp. 342–44; Paul Thomas, 'Comment on Harris's "Hegel's Theory of Sovereignty, International Relations, and War" and Paolucci's "Hegel and the Nation-State System of International Relations"', in Verene (ed.), *Hegel's Social and Political Thought*, p. 175. On the master and slave example, see PS, pp. 111–19. See also an illuminating account of the master and slave by Robert Stern in his masterful *Hegel and the Phenomenology of Spirit*, pp. 71–85.
23. The relevant passage – found in Hegel, ES, §435A – occurs in the section 'Acknowledging Self-consciousness [*Das anerkennende Selbstbewußtsein*]' within Hegel's discussion of 'Consciousness as Such [*Das Bewußtsein als solches*]' in the 'Phenomenology of Spirit [*Die Phänomenologie des Geistes*]' section of his *Encyclopaedia of the Philosophical Sciences*.
24. I, therefore, disagree rather strongly with Hans-Martin Jaeger. See Brooks, 'Hegel's Theory of International Politics', pp. 149–52 and Jaeger, 'Hegel's Reluctant Realism and the Transnationalisation of Civil Society', pp. 497–517.
25. See, for example, Boucher, 'British Idealist International Theory', p. 73 ('Hegel's ill-deserved, but not wholly unfounded, reputation as a brutal realist'); Brooks, 'Hegel's Theory of International Politics', pp. 149–52; Hutchings, *International Political Theory*, p. 94 (Hegel 'is acknowledged as a key figure in realism'); and Hayo Krombach, *Hegelian Reflections on the Idea of Nuclear War* (London: Palgrave, 1991). Both Boucher and Hutchings think realism is not perfectly consistent with Hegel's theory. See also Chris Brown, Terry Nardin, and Nicholas Rengger (eds), *International Relations in Political Thought: Texts from the Ancient Greeks to the First World War* (Cambridge: Cambridge University Press, 2002), pp. 462, 465 and Chris Brown, *International Relations Theory: New Normative Approaches* (New York: Columbia University Press, 1992), p. 66.
26. Edward Hallett Carr, *The Twenty Years' Crisis 1919–1939: An Introduction to the Study of International Relations* (London: Macmillan, 1962), p. 153.
27. See Brooks, 'Hegel's Theory of International Politics', p. 149.

28. See Joseph M. Grieco, *Cooperation Among Nations: Europe, America, and Non-Tariff Barriers to Trade* (Ithaca, NY: Cornell University Press, 1990), pp. 3–4.
29. See Kenneth N. Waltz, *Theory of International Politics* (Reading: Addison-Wesley, 1979), p. 102.
30. See Waltz, *Theory of International Politics*, pp. 79–128.
31. See Waltz, *Theory of International Politics*, pp. 93–4; Robert O. Keohane, ‘Theory of World Politics: Structural Realism and Beyond’, in Robert O. Keohane (ed.), *Neorealism and Its Critics* (New York: Columbia University Press, 1986), pp. 163–5; and Robert Gilpin, ‘The richness of the tradition of political realism’, in *Neorealism and Its Critics*, pp. 304–5.
32. I, therefore, disagree with David Boucher who argues that ‘any resemblance between the conclusions of Hegel and those of the Realists will be to some extent coincidental . . . [because Hegel] rejects the philosophical foundations of Realism, that is, the use of nature as a criterion of conduct’. Boucher, *Political Theories of International Relations*, p. 339. I disagree because it seems clear on my reading that Hegel does not, in fact, reject realism, in endorsing realism’s four main characteristics. If I am correct to argue that Hegel does support this view of realism, then it is difficult to see why precisely we would be mistaken to understand his theory of international relations as a *realist* theory of international relations even if we found insubstantial differences between Hegel’s views and the views of other realists.
33. See PR, §324R.
34. Knowles, *Hegel and the Philosophy of Right*, p. 317. See Gordon, ‘Modernity, Freedom, and the State’, p. 309. See also PR, §268R: ‘Patriotism is frequently understood to mean only a willingness to perform extraordinary sacrifices and actions. But in essence, it is that disposition which, in the normal conditions and circumstances of life, habitually knows that the community is the substantial basis and end’. Indeed, Hegel’s understanding of patriotism is fairly passive when compared with traditional notions of patriotism. I am grateful to Leif Wenar for raising this point.
35. Brod, *Hegel’s Philosophy of Politics*, p. 121.
36. I, therefore, disagree with Popper in his *The Open Society and Its Enemies*, p. 64.
37. Boucher, ‘British Idealism, the State, and International Relations’, p. 685.
38. Walt, ‘Hegel on War’, p. 118.
39. See PR, §324R.
40. Gordon, ‘Modernity, Freedom, and the State’, p. 318 (emphasis given).
41. Many interpreters have been troubled by the following passage by Hegel in the *Phenomenology of Spirit*: ‘The spirit of the universal assembly and association is the simple and negative essence of those systems which tend to isolate themselves. In order not to let them become rooted and set in this isolation, thereby breaking up the whole and letting the [community’s] spirit evaporate, government has from time to time to shake them to their core by war. By this means the government upsets their established order, and violates their right to independence, while the individuals who, absorbed in their own way of life,

break loose from the whole and strive after the inviolable independence and security of the person, are made to feel in the task laid on them their lord and master, death' (PS, pp. 272–3). It must be pointed out that the context of this passage is Hegel's discussion of ancient Greek life, specifically Sophocles's *Antigone*. He is not discussing states in modernity. As modernity represents a break from Greek life in Hegel's view, I believe this passage to be inapplicable to Hegel's views on war in modernity.

42. Shelton, 'The Morality of Peace', p. 398 n. 45.
43. See GC, p. 49.
44. A *Rechtsstaat* may make errors of judgement insofar as it imperfectly embodies justice in its decision-making institutions.
45. See LNR, §164: 'a judgement, moreover, that is rendered not merely by its might and blind destiny but by the necessary development of its self-consciousness, whereby a single nation or people is made responsible for implementing a single moment and stage, which it receives in the form of a principle. Such-and-such a people is dominant in world history during such-and-such an epoch'. See also PR, §347. For a similar view, see Henry Kissinger, *Diplomacy* (New York: Simon and Schuster, 1994): p. 17: 'Almost as if according to some natural law, in every century there seems to emerge a country with the power, the will, and the intellectual and moral impetus to shape the entire international system in accordance with its own values'.
46. On the role of the monarch in the state, see Chapter 7.
47. See Walt, 'Hegel on War', p. 116.
48. In his earlier lectures on political philosophy, Hegel intimates that war need not come to an end between states that fail to recognise one another (see LNR, §161R). Hegel does not offer any clear indication on this in the later *Philosophy of Right*. I am most grateful to James Pattison for pushing me on this issue.
49. See Immanuel Kant, *Perpetual Peace: A Philosophical Sketch*, (ed. and trans.) Lewis White Beck (Indianapolis, IN: Bobbs-Merrill, [1795] 1957) and Thom Brooks, *The Global Justice Reader* (Oxford: Blackwell, 2008), chapter sixteen.
50. Walt, 'Hegel on War', p. 123.
51. Kant, *Perpetual Peace*, p. 4 (section one, second question). See also p. 31 (first supplement).
52. See Kant, *Perpetual Peace*, p. 16 (second definitive article for a perpetual peace).
53. Kant, *Perpetual Peace*, p. 18.
54. Kant, *Perpetual Peace*, p. 45 (appendix one).
55. See, for example, Verene, 'Hegel's Account of War', p. 177: 'Kant offers us directly a theory of peace. Hegel offers us directly a theory of war'.
56. See LNR, §160R; PR, §324R; and Hegel, 'On the Scientific Ways of Treating Natural Law' in G. W. F. Hegel, *Political Writings*, (eds) Laurence Dickey and H. B. Nisbet (Cambridge: Cambridge University Press, 1999), p. 141. Here Hegel is alluding to Anne-Robert-Jacques Turgot, 'Discourse at the Sorbonne on the Successive Advancements of the Human Mind' (1750) *Œuvres de Turgot*

- I, (ed.) Gustave Schelle (Paris: Alcan, 1913), p. 218 cited in *PR*, p. 473 n. 1: 'War desolates only the frontiers of empires; [in war], towns and country places continue to breathe in the bosom of peace; the ties of society unite a greater number of men; the communication of ideas becomes more prompt and further spread; the arts, sciences, and manners make progress at a more rapid rate. Thus like the storm which agitates the waves of the sea, the evils inseparable from revolutions disappear, the good remains and humanity perfects itself'.
57. See *PR*, §259A.
 58. See *LNR*, §136R and *PH*, p. 255.
 59. See *PR*, §§261A, 265A.
 60. Kissinger, *Diplomacy*, p. 21.
 61. See *PH*, pp. 431–4. As an example, Hegel says: 'A system of the balance of power in Europe has taken shape, i.e. a system whereby, in the event of war, all European powers will usually have an interest at stake and each of them . . . will be prevented from reaping the fruits of even the most fortunate war' (*GC*, p. 93.)
 62. See *SL*, pp. 113–14: 'The individual is a relation-to-self through its setting limits to everything else; but these limits are thereby also limits of itself, relations to an other, it does not possess its determinate being within itself'. For Hegel, 'determinateness' is only made possible by 'differentiation': see also pp. 588–9.
 63. Indeed, in many respects this illuminates a general feature of international relations, that is, the way in which states define themselves through their opposition to other states, such as in the Cold War and the current so-called 'war on terrorism'.
 64. Smith, *Hegel's Critique of Liberalism*, p. 164. See Hicks, *International Law and the Possibility of a Just World Order*, p. 21 and Smith, 'Hegel's Views on War, the State, and International Relations', p. 631. See also Avineri, *Hegel's Theory of the Modern State*, p. 207: 'Thus, though Hegel had begun with the immanence of war – in the end he emerges with a vision of One World, united by culture and reason, progressing towards a system wherein sovereignty, though acknowledged, will wither away, and wars, though immanent, will gradually disappear'.
 65. I take it that by 'the growing rationalization or Westernization of humanity founded on . . . the rule of law and Protestant Christianity' Smith is referring to the Germanic sphere.
 66. G. W. F. Hegel, *Lectures on the Philosophy of World History: Introduction: Reason in History*, (trans.) H. B. Nisbet (Cambridge: Cambridge University Press, 1975), p. 171.
 67. *PR*, §340. See also §341; *LNR*, §164R; and *ES*, §548. The phrase is from Friedrich Schiller, 'Resignation' (1794), *Werke* III (Frankfurt: Insel, 1966), pp. 61–2 reprinted in *PR*, p. 476, n. 1.
 68. *PR*, p. 23 (translation modified) [*Um noch über das Belehren, wie die Welt sein soll, ein Wort zu sagen, so kommt dazu ohnehin die Philosophie immer zu spät . . . die Eule der Minerva beginnt erst mit der einbrechenden Dämmerung ihren Flug*].

69. Rüdiger Bubner, 'Hegel and the End of History', *Bulletin of the Hegel Society of Great Britain* 23/24 (1991), p. 23.
70. For example, Barry Buzan says: 'In relation to the emergence of a world economy, and to some extent the development of a world society, and even in terms of transportation and communication systems, it is clearly naive now to think of a world made up of sovereign states which "contain" everything . . . The idea of a nation-state presupposes that the state embraces a particular society and a particular culture . . . Now, all of these assumptions are rather falling away because the economy is clearly becoming globalized . . . it is not so much that I think that realism is wrong; it is a mistake to assume that the state is disappearing. The state is still there, and to some extent, therefore, the realist logic still applies. But other things have become more important and one has to judge realism in relation to the importance of these other areas'. Barry Buzan, David Held, and Anthony McGrew, 'Realism vs Cosmopolitanism: A Debate Between Barry Buzan and David Held, Conducted by Anthony McGrew', *Review of International Studies* 24 (1998), p. 390.

Chapter 10. History

1. See Francis Fukuyama, 'The End of History?' *The National Interest* (Summer 1989), pp. 3–18; Francis Fukuyama, *The End of History and the Last Man* (New York: Free Press, 1992); and Francis Fukuyama, 'Capitalism and Democracy: The Missing Link', *Journal of Democracy* 3 (1992), pp. 100–10. See also Timothy Burns (ed.), *After History? Francis Fukuyama and His Critics* (Lanham, MD: Littlefield Adams, 1994).
2. Fukuyama, *The End of History and the Last Man*, p. 4.
3. For example, see Fukuyama, *The End of History and the Last Man*, pp. xii–xiii, xiv, xvi–xviii, 59–69, 75, 83, 91, 135, 143–56, 159–61, 165, 176, 182, 185, 191, 194–200, 203, 203–4, 208, 216, 223–4, 288, 296, 300–2, 311, 322, 329–30, and 337.
4. For example, see Susan Marks, 'The End of History? Reflections on Some International Legal Theses', *European Journal of International Law* 8 (1997), pp. 449–77.
5. Hegel's philosophy of history is relevant to the study of his *Philosophy of Right* because this text leads us to consider world history in light of a wider view about international politics over time. On Hegel and international relations, see Brooks, 'Reply to Jaeger'; *ES*, §§548–52; and *PR*, §§341–60. Indeed, the initial presentation of world history is considered within 'Ethical Life' (see *PR*, §§341–60).
6. See Jeffrey Friedman, 'The New Consensus: The Fukuyama Thesis', *Critical Review* 3 (1989), pp. 373–410; Gilbert Gérard, 'Hegel et la fin de la philosophie', *Archives de Philosophie* 73 (2010), pp. 249–66; David Herwitz, 'Francis Fukuyama and the End of History', *South African Journal of Philosophy* 19 (2000), pp. 222–34; Inwood, *A Hegel Dictionary*, p. 119; Knowles, *Hegel and the Philosophy*

- of Right, pp. 80–82, 119; Peter Lupon, ‘The End-of-History Idea Revisited’, *Clio* 35 (2005), pp. 51–73; Sergei Prozorov, ‘Giorgio Agamben and the End of History: Inoperative Praxis and the Interruption of the Dialectic’, *European Journal of Social Theory* 12 (2009), pp. 523–42; David Rose, *Hegel’s Philosophy of Right* (London: Continuum, 2007), p. 135; Stephen Schroeder, ‘The End of History’, *Journal of Social Philosophy* 23 (1992), pp. 127–41; and Panagiotis Thanassas, ‘Hegel’s Hermeneutics of History’, *Archiv für Geschichte der Philosophie* 91 (2009), pp. 70–94.
7. See Joseph McCarney, *Hegel on History* (London: Routledge, 2000), p. 173.
 8. McCarney, *Hegel on History*, p. 174.
 9. See also SL, p. 370.
 10. See McCarney, *Hegel on History*, p. 192.
 11. See Francis Fukuyama, ‘Reflections on *The End of History*, Five Years Later’, *History and Theory* 34 (1995), pp. 27–43.
 12. Pinkard, *Hegel’s Phenomenology*, p. 332. See also, p. 338.
 13. See EL, p. 10: ‘The history of philosophy is the story of the discovery of the thought about the Absolute which is their subject-matter.’
 14. See Neuhouser, *Foundations of Hegel’s Social Theory*, p. 34.
 15. See Taylor, *Hegel and Modern Society*, p. 97: ‘there is in fact a looseness of fit between history and logic’.
 16. The ‘German world’ includes several countries in addition to Germany, such as England (see PH, p. 455).
 17. Hegel is clear that his headings and subdivisions ‘are not themselves intended to have any other significance than that of a list of contents’ (SL, p. 55).
 18. See Rudiger Bubner, ‘Hegel and the End of History’, *Bulletin of the Hegel Society of Great Britain* 23/24 (1991), pp. 15–23; H. S. Harris, ‘The End of History in Hegel’, *Bulletin of the Hegel Society of Great Britain* 23/24 (1991), pp. 1–14; and Kimberly Hutchings, *Hegel and Feminist Philosophy* (Cambridge: Polity, 2003), pp. 40–4. See also Houlgate, *An Introduction to Hegel*, p. 9: ‘For [Hegel], philosophical ideas, religious beliefs, aesthetic forms and political constitutions do not have a permanent, unchanging validity, but are the specific products of specific times and places and must be understood in the context of the time and place in which they emerged.’
 19. See SL, p. 216: ‘logic itself is such awareness and it strips these forms of their particularity which it renders superfluous and unnecessary; it is logic which rectifies these forms and alone procures for them their justification, meaning and value’.
 20. See Houlgate, *An Introduction to Hegel*, p. 12 and Wood, *Hegel’s Ethical Thought*, p. 221.
 21. It is important to note that philosophical actuality is not to be understood in terms of pure idealism: ‘the Idea is present and actual, not something over the hills and far away’ (EL, §24A3).
 22. See EL, §6R: ‘But when I speak of actuality, one should, of course, think about the sense in which I use this expression, given the fact that I dealt with

actuality too in a quite elaborate *Logic*, and I distinguished it quite clearly and directly, not just from what is contingent, even though it has existence too, but also, more precisely, from being-there, from existence, and from other determinations.'

23. G. W. F. Hegel, *Lectures on the History of Philosophy*, vol. III, trans. Elizabeth S. Haldane and Frances H. Simson (London: Kegan Paul, Trench, Trübner, 1896), p. 552.
24. This interpretation rejects the view that, for Hegel, there is an account of 'actual' historical development that is timeless. Any judgement about history is itself historical: we lack knowledge about the future and must be open – as I believe that Hegel is – to revising our judgements in light of new knowledge. For a different interpretation, see Rocio Zambrana, 'Hegel's Legacy', *Southern Journal of Philosophy* 50 (2012), pp. 273–84.
25. The classic essay on this topic is G. A. Kelly, 'Hegel's America', *Philosophy and Public Affairs* 2 (1972), pp. 3–36. See Franco, *Hegel's Philosophy of Freedom*, pp. 339–41. See also J. H. Muirhead, 'How Hegel Came to America', *Philosophical Review* 37 (1928), pp. 226–40.

Conclusion

1. See Benedetto Croce, *What is Living and What is Dead of the Philosophy of Hegel*, (trans.) Douglas Ainslie (London: Macmillan, 1915). In addition, the accusations many commentators claim against each other often follows Croce's final passage in this book: 'the first condition for resolving whether to accept or to reject the doctrine which Hegel propounds . . . is to *read his books*: and to put an end to the spectacle, half comical and half disgusting, of the accusation and the abuse of a philosopher by critics who do not know him, and who wage a foolish war with a ridiculous puppet created by their own imaginations, under the ignoble sway of traditional prejudice and intellectual laziness'. I certainly do *not* make this criticism of anyone working on Hegel today discussed in this book.
2. Wood, *Hegel's Ethical Thought*, p. 8.
3. Wood, 'Reply', p. 35.
4. Taylor, *Hegel*, p. 68.
5. See Rosen, *Hegel's Dialectic and Its Criticism*, p. 179.
6. See Rosen, *Hegel's Dialectic and Its Criticism*, pp. 179–80.
7. This photograph (*Tynemouth Castle in March*) can also be found online at: <http://the-brooks-blog.blogspot.com/2007/04/tynemouth-castle-in-march.html>.

Reply to Critics

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2. These include an ‘author meets critics’ symposium published in the *Bulletin of the Hegel Society of Great Britain* and several reviews. Some of these include Gary Browning, ‘Review Article: Interpreting Hegel’, *History of Political Thought* 33 (2012), pp. 169–73; Renato Cristi, ‘Book Review: Thom Brooks, *Hegel’s Political Philosophy: A Systematic Reading of the Philosophy of Right*’, *Philosophy in Review* 29 (2009), pp. 159–61; Lydia L. Moland, ‘The True is (Still) the Whole: Defending Hegel’s System as System’, *H-Net Reviews in the Humanities and Social Sciences* (2010), available at: <http://www.h-net.org/reviews/showrev.php?id=25922>; Paul Redding, ‘Thom Brooks’s Project of a Systematic Reading of Hegel’s *Philosophy of Right*’, *Bulletin of the Hegel Society of Great Britain* 66 (2012), forthcoming; Michael Rosen, ‘The Ruined Castle’, *Bulletin of the Hegel Society of Great Britain* 66 (2012), forthcoming; Evangelia Sembou, ‘Book Review’, *Political Studies Review* 10 (2012), p. 86; Mark Tunick, ‘Book Review: Thom Brooks, *Hegel’s Political Philosophy: A Systematic Reading of the Philosophy of Right*’, *Mind* 118 (2009): 449–53; and Allen Wood, ‘Thom Brooks and the “Systematic” Reading of Hegel’, *Bulletin of the Hegel Society of Great Britain* 66 (2012), forthcoming.
 3. Examples include Beiser, ‘Hegel, a Non-Metaphysician?’; Beiser, *Hegel*; and Rosen, *Hegel’s Dialectic and its Criticism*.
 4. Examples include Engelhardt and Pinkard, *Hegel Reconsidered*; Knowles, *Hegel and the Philosophy of Right*; Neuhaus, *Foundations of Hegel’s Social Theory*; and Pelczynski, ‘An Introductory Essay’.
 5. A similar distinction is offered by John Rawls in ‘Justice as Fairness’. See Rawls, *Collected Papers*, pp. 388–414.
 6. Wood, *Hegel’s Ethical Thought*, p. 5.
 7. Neuhaus, *Foundations of Hegel’s Social Theory*, p. 4.
 8. See Beiser, *Hegel*; Dudley, *Hegel, Nietzsche, and Philosophy*; Houlgate, *Freedom, Truth, and History*; Houlgate, *An Introduction to Hegel*; Richardson, ‘The Logical Structure of *Sittlichkeit*’, Rosen, *Hegel’s Dialectic and its Criticism*; and Stern, *Hegel and the Phenomenology of Spirit*.
 9. See Burbidge, *On Hegel’s Logic*; Hardimon, *Hegel’s Social Philosophy*; Knowles, *Hegel and the Philosophy of Right*; Steinberger, *Logic and Politics*; and Wood, *Hegel’s Ethical Thought*.
 10. My more recent defences of Hegel’s positions are found in Brooks, *Punishment*; Thom Brooks, ‘Hegel and the Unified Theory of Punishment’, in Thom Brooks (ed.), *Hegel’s Philosophy of Right* (Oxford: Blackwell, 2012), pp. 103–23; and Thom Brooks, ‘Between Statism and Cosmopolitanism: Hegel and the Possibility of Global Justice’, in Andrew Buchwalter (ed.), *Hegel and Global Justice* (Dordrecht: Springer, 2012), pp. 65–83. See also Thom Brooks, ‘Natural Law Internalism’, in Brooks, *Hegel’s Philosophy of Right*, pp. 167–79.
 11. See Redding, ‘Thom Brooks’s Project of a Systematic Reading of Hegel’s *Philosophy of Right*’.

12. For example, see Knowles, *Hegel and the Philosophy of Right*.
13. This is presented in Chapter 7.
14. I must also thank Brian O'Connor once more for encouraging me to engage deeply with Rosen's texts in light of what it might reveal about our understanding of the *Philosophy of Right*.
15. Wood, *Hegel's Ethical Thought*, p. 1.
16. See Wood, 'Thom Brooks and the "Systematic" Reading of Hegel'.
17. See Brooks, *Punishment* and Brooks, 'Hegel and the Unified Theory of Punishment'.
18. See Rosen, 'The Ruined Castle'.
19. My photograph of Tynemouth Castle may be accessed at: <http://the-brooks-blog.blogspot.co.uk/2007/04/tynemouth-castle-in-march.html>.
20. See Tunick, 'Book Review'.
21. See Brooks, *Punishment*.
22. See J. D. Mabbott, 'Punishment', *Mind* 48 (1939), pp. 152–67.
23. For example, see Thom Brooks, 'Muirhead, Hetherington, and Mackenzie', in William Sweet (ed.), *The Moral, Social and Political Philosophy of the British Idealists* (Exeter: Imprint Academic, 2009), pp. 209–32.
24. For example, see Brooks, *Punishment*; Brooks, 'T. H. Green's Theory of Punishment'; Thom Brooks, 'Was Green a Utilitarian in Practice?' *Collingwood and British Idealism Studies* 14 (2008), pp. 5–15; Thom Brooks, 'Punishment and British Idealism', in Jesper Ryberg and J. Angelo Corlett (eds), *Punishment and Ethics: New Perspectives* (Basingstoke: Palgrave Macmillan, 2010), pp. 16–32; Thom Brooks, 'Is Bradley a Retributivist?' *History of Political Thought* 32 (2011), pp. 83–95; Thom Brooks, 'Punishment: Political, Not Moral', *New Criminal Law Review* 14 (2011), pp. 427–38; Thom Brooks, 'What Did the British Idealists Do for Us?' in Thom Brooks (ed.), *New Waves in Ethics* (Basingstoke: Palgrave Macmillan, 2011), pp. 28–47; and Brooks, 'Hegel and the Unified Theory of Punishment'.
25. See Tunick, 'Hegel's Justification of Hereditary Monarchy'.
26. For example, see Houlgate, *The Opening of Hegel's Logic*.

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